Calendar No. 529
93d Congress, 1st Session - - - - - Senate Report No. 93-553

SOCIAL SECURITY AMENDMENTS OF 1973

REPORT

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

TO ACCOMPANY

H.R. 3153

TO AMEND THE SOCIAL SECURITY ACT TO MAKE CERTAIN TECHNICAL AND CONFORMING CHANGES

(Together With Additional Views)

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

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SOCIAL SECURITY AMENDMENTS OF 1973

November 21, 1973—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3153]

The Committee on Finance, to which was referred the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House would make a number of minor, clerical, and conforming changes in the Social Security Act to correct errors and oversights in the Social Security Amendments of 1972. The Committee amendment incorporates a number of substantive provisions affecting social security cash benefits, the Supplemental Security Income program, social services, child welfare services, child support, Aid to Families with Dependent Children, Medicare and Medicaid. The Committee bill also establishes a new tax credit for low-income workers with children and, to pay the cost of the tax credit, deletes the income tax itemized deduction for State and local gasoline taxes. A summary of the Committee amendments follows.

Social Security Cash Benefits

11% Benefit increase.—Under a provision enacted last year, social security benefits will rise automatically as the cost of living rises. Under last year's law, the first cost of living increase would not have become effective until January 1975. In July of this year a provision was enacted increasing social security benefits by 5.9 percent, effective for June 1974; this increase would be an early partial payment of the larger cost-of-living increase already scheduled to become

effective January 1975. The Committee bill would replace this 5.9 percent increase effective June 1974 by an 11-percent cost-of-living increase in two steps. The first step would be a 7-percent increase effective with the month of enactment. This would be followed by a second increase, starting with June 1974, to bring the benefits up to 11 percent above the present level.

Automatic cost-of-living increases.—Under present law, if the consumer price index rises by at least 3 percent between the second quarter of one year and the second quarter of the next year, social security benefits will be increased by the same percentage that the cost of living has risen, beginning the January following the latter year. The Committee amendment would modify this by measuring the increase in the cost of living from the first quarter of one year to the first quarter of the following year, with the automatic cost-of-living increase effective beginning with June of the latter year. (An exception is made for the first automatic increase, effective June 1975, which would be based on the rise in the consumer price index between the second quarter of 1974 and the first quarter of 1975.)

Special minimum benefit.—Legislation enacted in 1972 established a new special minimum social security benefit to provide a more adequate payment for those who retire after working in employment covered by social security for many years and at relatively low wage levels. Unlike the regular minimum which is typically payable to persons who have had very little employment under social security, the special minimum is so designed that it benefits only those with more than 20 years of work under social security. The amount of the special minimum under present law is equal to $8.50 times the individual's years of coverage under social security (over 10 and up to 30). Thus, with 30 years or more of coverage, an individual qualifies for a special minimum of $170.

Under the Committee bill, an individual with 30 years or more of coverage would qualify for a special minimum of $182 effective with the month of enactment and $190 effective for June 1974; thereafter, the special minimum would be increased automatically as the cost of living rises.

Financing.—Under the Committee bill, wages taxable under social security would be increased from $12,600 in 1974 to $13,200; thereafter, the wage base would increase automatically as wages rise, as under present law. Total social security tax rates under the Committee bill would not be increased until 1981, although future tax income would be shifted from the hospital insurance program into the cash benefit programs. The new tax rates are shown in the table below:

SOCIAL SECURITY TAX RATES

(In percent)

Calendar years	Cash benefits		Hospital insurance		Total taxes	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
	Employer-employee, each					
1974 to 1977	4.85	4.95	1.00	0.90	5.85	5.85
1978 to 1980	4.80	4.95	1.25	1.10	6.05	6.05
1981 to 1985	4.80	4.95	1.35	1.35	6.15	6.30
1986 to 2010	4.80	4.95	1.45	1.50	6.25	6.45
2011 and after	5.85	5.95	1.45	1.50	7.30	7.45
	Self-employed					
1974 to 1977	7.00	7.00	1.00	0.90	8.00	7.90
1978 to 1980	7.00	7.00	1.25	1.10	8.25	8.10
1981 to 1985	7.00	7.00	1.35	1.35	8.35	8.35
1986 to 2010	7.00	7.00	1.45	1.50	8.45	8.50
2011 and after	7.00	7.00	1.45	1.50	8.45	8.50

Veterans.—Under a provision in the Committee bill, veterans would be protected from any loss of pension benefits related to the 7 percent and 11 percent social security benefit increases.

Social security agreements with other countries.—The Committee bill also includes a provision authorizing the President to enter into bilateral agreements with interested foreign countries to provide for limited coordination between this country's social security system and those of the other countries.

Treatment of certain farm rental income.—Another provision of the Committee bill is designed to make clear how certain farm income is to be treated for social security purposes. Under the provision, an individual land owner who enters into an agreement with a person to manage his farm shall not have his rental income under the agreement counted as income for social security purposes provided that the landowner does not participate in the management or production of the farmland.

Cost-of-living study.—The Committee bill includes a provision directing the Department of Health, Education, and Welfare (HEW) to study the various programs under the Social Security Act to determine the feasibility of relating eligibility criteria and benefit amounts to the cost-of-living differentials among the States or among different areas within a State.

Policemen in Louisiana.—The committee bill would permit policemen eligible under the newly created Municipal Police Employees Retirement System of Louisiana to withdraw from social security

coverage without requiring that other State employees lose their social security coverage.

Policemen and firemen in California.—The Committee bill would permit policemen and firemen in California to withdraw from social security coverage without requiring that other State employees lose their social security coverage.

Tax Credit For Low-Income Workers With Families

Under another provision of the Committee amendment low-income workers who have families would be eligible for a tax credit equal to a percentage of the social security taxes payable on account of their employment during the tax year (equivalent to 10 percent of their wages taxed under the social security program). The maximum tax credit would apply for families where the total income of the husband and wife is $4,000 or less. For families where the husband's and wife's total income exceeds $4,000, the credit would be equal to $400 minus one-quarter of the amount by which their total income exceeds $4,000; thus, the taxpayer would become ineligible for the credit once total income reaches $5,600 ($5,600 exceeds $4,000 by $1,600; one-quarter of $1,600 is $400, which subtracted from $400 equals zero).

Supplemental Security Income

Increases in SSI benefits.—The new Federal Supplemental Security Income (SSI) program, which becomes effective in January 1974, would under present law provide Federal payments to assure the aged, blind, and disabled a monthly income of at least $130 ($195 for couples). Under a provision enacted in July of this year, these amounts would be increased effective July 1974 to $140 for an individual and $210 for a couple. The Committee bill would make these higher amounts of $140 and $210 effective from the start of the SSI program in January 1974. The Committee bill also provides for a further increase, effective July 1974, to $146 for an individual and $219 for a couple.

Food stamp eligibility for SSI recipients.—Under present law many Supplemental Security Income (SSI) recipients will be eligible for food stamps; however, an aged, blind or disabled individual will be ineligible for food stamps for a given month if his SSI benefits plus any State supplementary payment are at least equal to the welfare payment plus the bonus value of the food stamps he would be eligible to receive if the State's December 1973 State plan were still in effect. This provision of law enacted this year will be extremely difficult to administer and would present problems of unequal treatment in food stamp eligibility for SSI beneficiaries. The Committee bill, therefore, repeals the prohibition against participation by SSI recipients in the food stamp program. Due to the short time left before the SSI program becomes effective, however, the Committee bill includes a transitional provision for those States that have already acted to raise benefits to take into account the loss of food stamp eligibility.

For a transitional period until July 1975, States which have already made plans to "cash out" food stamps under the SSI program

would be permitted to do so, with recipients in these States ineligible for food stamps.

Limitation on grandfather clause for disabled individuals.—In enacting the new SSI program, the Congress provided that disabled persons on the rolls in December 1973 would continue to be considered to be disabled even if they did not meet the new definition of disability. The Committee amendment would limit this grandfather provision for disability to persons who had received Aid to the Disabled before July 1973 and who are on the rolls in December 1973.

SSI recipients living with AFDC families.—In June, the Congress enacted a grandfather clause to assure that current SSI recipients will have no reduction in total income when the new SSI program goes into effect in January. The Committee amendment would permit the adjustment of the grandfather clause in such a way that it assures the same level of total family income (rather than the *individual's* total income) in those cases in which the SSI recipient resides with an AFDC family.

Disregard of certain benefits.—The Committee bill includes a provision under which certain State benefits paid to aged individuals based on their length of residence in a State would be disregarded in determining the amount of the SSI benefit.

Continuation of demonstration projects.—The committee bill would permit the continuation of on-going demonstration projects related to the aged, blind and disabled which qualify for Federal matching under the public assistance titles of the Social Security Act and which involve waivers by the Secretary of Health, Education, and Welfare of some of the requirements of those titles. The new Federal SSI program which next January will replace present programs of aid to the aged, blind and disabled does not provide for such waivers and funding of demonstration projects.

Combined checks for married couples.—In order to make it feasible for the Social Security Administration to issue joint checks to couples receiving SSI benefits who request such checks, the Committee bill includes a provision which would permit such checks to be cashed by the surviving spouse in the case of the death of the husband or wife.

Social Services

On May 1, 1973, the Department of HEW issued sweeping revisions in Federal regulations relating to social services under the Social Security Act. These regulations were to have become effective on July 1. However, the Congress delayed the effective date of the new regulations until November 1 in order to allow time for more thorough legislative consideration of the issues involved. The Committee bill incorporates a provision in effect converting the present law as it affects social services to a $2.5 billion social services revenue sharing program. The bill includes a requirement that any increase in Federal social services funding in a State be used for an actual increase in services provided rather than to simply replace State funds now being spent on services. Also included is an illustrative list of the types of social services which may be funded. The States would, however, be free to provide other services not specifically included in this listing. In the fiscal year 1974, expenditures would be held to $1.9 bil-

lion, the amount in the President's budget. The Committee provision would be effective November 1, 1973.

Child Welfare Services

National adoption information exchange system.—The committee bill would authorize $1 million for the first fiscal year and such sums as may be necessary for succeeding fiscal years for a Federal program to help find adoptive homes for hard-to-place children. The amendment would authorize the Secretary of Health, Education, and Welfare to "provide information, utilizing computers and modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children for persons who wish to adopt children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoption."

Child abuse and neglect; protective services.—Last year the Congress substantially increased funds authorized for grants to States for child welfare services. Though the Congress expected that a large part of the additional funds would go toward meeting the cost of providing foster care, a specific earmarking for that purpose was avoided so that wherever possible the States and counties could use the additional funds to expand preventive child welfare services with the aim of helping families stay together thus avoiding the need for foster care. The Committee bill builds upon last year's record by adding requirements both under the AFDC and child welfare services programs that States establish programs of protective services to aid in the prevention, identification and treatment of child abuse and neglect and, whenever feasible, to make it possible for the child to remain in the home.

Child Support

Present law requires that the State welfare agency establish a single, identified unit whose purpose is to secure support for children who have been deserted or abandoned by their parents, utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support. If it is necessary to establish paternity to find an obligation to support, this unit is supposed to carry out this activity. The State welfare agency is further required to enter into cooperative arrangements with the courts and with law enforcement officials to carry out this program. Access is authorized to both Social Security and (if there is a court order) to Internal Revenue Service records in locating deserting parents. The administration of the provisions of present law has varied widely among the States.

The Committee bill includes a number of features designed to assure an effective program of child support. The Committee bill leaves basic responsibility for child support and establishment of paternity to the State but it envisions a far more active role on the part of the Federal Government in monitoring and evaluating State programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them.

States would be required to have effective programs for the collection of support and the establishment of paternity; Federal matching for these efforts would be increased from the present 50 percent to 75 percent but States not complying with the requirements would face a penalty in the form of reduced Federal matching funds for Aid to Families with Dependent Children.

Access to support collection services would be available to families not on welfare as well as to those on welfare.

Aid to Families with Dependent Children

Pass-along of social security benefit increase.—To assure that recipients of Aid to Families with Dependent Children who are also social security beneficiaries receive the benefit of at least part of the social security increase, the Committee amendment would require States, in determining need for AFDC, to disregard 5 percent of social security income. This provision would be effective starting with the month in which the beneficiaries begin receiving increased benefits.

Earnings disregard.—Under present law, payments under the AFDC program are not reduced dollar for dollar because of any earnings. Instead, all work expenses are deducted from earnings. In addition, $30 plus one-third of monthly earnings above $30 are disregarded. Under the Committee provision, child care costs would be the only work expense that could be separately deducted from earnings; the disregard would be $60 (rather than the present $30) plus one-third of the next $300 of monthly earnings plus one-fifth of earnings above this amount.

Community work and training program.—Under present law, States have been prohibited from establishing community work and training programs even though the Work Incentive Program is not in effect throughout the State. The Committee bill re-enacts the legislation as it existed prior to the Social Security Amendments of 1967 so that States wishing to have community work and training programs may do so.

Demonstration project authority.—The Committee bill includes a provision which broadens the experimentation authority in existing law with respect to welfare programs so as to emphasize and encourage experimentation by the States in the crucial area of making employment more attractive for welfare recipients. Examples of the types of projects the Committee has in mind would be those for public service employment under which the amount of the welfare payment could be combined with State funds to provide a salary considerably more attractive than welfare. Other experimentation might involve work incentives and the AFDC income disregard. All authority for such projects would expire on June 30, 1976.

Medicare and Medicaid Amendments

Medicaid eligibility.—The Committee bill contains several sections treating the matter of Medicaid eligibility for SSI recipients. The bill contains a provision which would make Federal matching available for Medicaid benefits for any new SSI recipients, although coverage of these new recipients would be optional on the

part of a State. The Committee bill would make Medicaid coverage mandatory for those persons who receive a mandatory State supplemental payment in accordance with the provisions of Public Law 93–66. The amendment also provides that for other persons receiving a State supplemental payment only, coverage would be optional, depending upon the State's decision, but that a State must make eligibility determinations based upon some rational classifications of recipients. Additionally, the provision places an upper limit on the monthly income (initially $420 in the case of an individual) which an institutionalized person can have and still be "deemed" in special need and, therefore, eligible for Medicaid coverage in a State without a medically-indigent program.

Medicaid and Health Maintenance Organizations (HMO's).—Another Committee amendment would apply certain quality and reimbursement standards to HMO's participating in Medicaid. The quality standards and reimbursement requirements parallel in large part, those applicable to HMO's participating under the Medicare program with modifications designed to reasonably take into account the differences between Medicare and Medicaid.

Payments to substandard facilities.—The Committee bill contains a provision which amends Title XVI to provide that the Federal SSI payment will be reduced dollar-for-dollar for any State supplemental payment which is made for care provided to institutionalized individuals if this care could be provided under the State's Medicaid program. This provision is intended to prevent States from using their cash grant programs to finance care in institutions which do not meet Medicaid standards.

Federal matching under Medicaid for care to Indians.—The Committee bill contains a provision which would increase Federal matching under Medicaid to 100 percent for services provided to individuals who were eligible for services under the Indian Health Services Program and resided on or adjacent to a Federal Indian Reservation during the year before they received Medicaid services.

Medicare administration.—The Committee bill includes a provision formally assigning policy and operating responsibility for the Medicare program to the Social Security Administration.

Kidney dialysis and transplantation.—The Committee bill also requires the Secretary to develop and apply minimal utilization rates for facilities reimbursed under the dialysis and transplantation provision and mandates the Secretary to require that such facilities have independent medical review boards to evaluate the appropriateness and site of therapy proposed for the patient.

Capital expenditures planning.—Last year's Social Security Amendments preclude Federal reimbursement for major capital expenditures which have been disapproved by State planning agencies. The Committee bill provides that effective July 1, 1974, authorization of reimbursement from Medicare and Medicaid for expenditures incurred in the administration of this capital planning provision shall be limited to those costs directly associated with preparing and transmitting reports and processing appeals concerning approved or disapproved capital expenditures.

Occupational therapy.—The Committee bill contains a provision expanding the outpatient physical therapy and speech pathology bene-

fits as provided through clinics and other organized settings to include occupational therapy. Additionally, it provides that a need for occupational therapy alone can qualify the home-bound patient for home health benefits.

Reimbursement of institutions and organizations under Medicare.—The Committee amended the effective date of Section 233 of P.L. 92–603 to accounting periods beginning after December 31, 1973 instead of December 31, 1972 as in present law. This section of the law limits Medicare reimbursement to the lesser of an institution's costs or charges to the general public. The Committee provision provides additional time for such institutions to adjust their charges to more accurately reflect their costs.

Speech therapy.—The Committee bill contains a provision which makes it clear that a physician's referral for speech therapy services need not necessarily detail the amount, duration and scope of services required.

Professional Standards Review Organizations (PSRO's).—Another provision of the Committee bill affirmatively provides that the Secretary may designate a State as a PSRO area and that he may not refuse to make such designation solely on account of the number of physicians in a State. An additional provision specifies that the Secretary shall give priority to designating PSRO areas on a local (medical service area) basis and also give priority to designating qualified local organizations as PSRO's where feasible. While priority would be given to local areas and entities, the Secretary, as previously noted, could not rule out consideration of designating a Statewide PSRO area or organization solely on account of the number of doctors in a State. The Committee also approved a provision authorizing the establishment of Statewide PSRO Councils in States having less than three PSRO's. The principal function of such councils is to hear appeals from the decisions made by local PSRO review organizations.

Federal employees' health plan and Medicare.—Section 210 of P.L. 92–603 requires the Civil Service Commission to assure that by January 1, 1975 Federal employees and retirees who are eligible under both the Federal employee health insurance program and Medicare be provided supplemental coverage or reduced premiums in recognition of the overlap between the two programs. To provide more time to resolve administrative difficulties which have arisen in the implementation of Section 210, the Committee approved an amendment postponing the effective date of the provision to January 1, 1976.

Reimbursement of physical therapists under Medicare.—Section 251 of P.L. 92–603, which details the approved means of reimbursing for the services of physical therapists under Medicare, has an effective date of January 1, 1973. In view of the fact that appropriate regulations implementing the provisions have not been issued as yet, the Committee approved an amendment making section 251 of Public Law 92–603 effective following publication of the final regulations.

Study of optometrists' services.—The Committee approved an amendment calling for a study by the Social Security Administration on the appropriateness of reimbursement under Medicare for services performed by optometrists with respect to the provision of corrective lenses following cataract surgery.

Supervisory physicians.—The Committee amendment directs the Secretary of Health, Education and Welfare to undertake a study covering all aspects related to payment for professional services in medical schools and teaching hospital settings. While the study is being undertaken, certain provisions of Section 227 of P.L. 92–603, limiting medicare reimbursement to medical centers for the services of teaching physicians, would be suspended. However, the suspension would not apply to those hospitals which are reimbursed on a costs basis in accordance with Section 227.

Clerical and Conforming Amendments

The Committee bill includes a number of provisions of a clerical and conforming character designed to correct mistakes and oversights in the Social Security Amendments of 1972.

Tax Provision

Gasoline tax deduction.—The Committee bill also includes a provision to eliminate the itemized deduction, for Federal income tax purposes, of State and local gasoline taxes. This provision would be effective for taxable years beginning after 1973.

II. SOCIAL SECURITY CASH BENEFITS

Eleven Percent Benefit Increase

(Secs. 101–106 of the bill)

Under a provision enacted as part of Public Law 92–336 last year, social security benefits will be increased automatically as the cost of living rises. The general provision of law states that each time the consumer price index rises by at least 3 percent between the second quarter of one year and the second quarter of the next year, social security benefits will be increased by the same percentage that the cost of living has risen. Each of these cost-of-living increases becomes effective for the January following the year in which the rise in the cost of living occurs. Under last year's law, the first cost of living increase could not have become effective until January 1975.

In July of this year, a provision was enacted as part of Public Law 93–66 increasing social security benefits by 5.9 percent effective for June 1974. The increase was considered to be an early, partial payment of the larger cost-of-living increase which was already scheduled to go into effect for January 1975 under the provisions of the Social Security Act which call for periodic, automatic cost-of-living increases in social security benefits.

Since this action was taken by the Congress, the cost of living has continued to rise, with a corresponding decline in the real income of about 30 million social security beneficiaries. The Committee believes that these beneficiaries should not have to wait until the middle of next year for a cost-of-living increase in benefits. The Committee therefore recommends that the law providing for a 5.9-percent benefit increase effective for June 1974 be modified to provide for an 11-percent benefit increase in two steps. The first step would be a 7-percent benefit increase effective for the month of enactment. This would

be followed by a second increase, starting with June 1974, to bring the benefits up to 11 percent above the present level. Assuming that the bill is enacted in November, about $3.5 billion in additional benefits will be paid in 1974.

Under the Committee bill, the minimum benefit would be increased from $84.50 to $90.50 a month for November through May 1974 and to $93.80 per month for months after May 1974. The average old-age benefit payable for November would rise from $166 to $178 per month and then to $186 a month for June 1974, and the average benefit for an aged couple would increase from $276 to $296 per month for November and to $310 for June 1974. Average benefits for aged widows would increase from $157 to $169 for November to $177 for June 1974.

Special benefits for persons age 72 and over who are not insured for regular benefits would be increased for individuals from $58 to $62.10 a month for November through May 1974 and to $64.40 per month for June 1974, and for couples from $87 a month to $93.20 a month for November through May and to $96.60 per month for June 1974 and after.

Special minimum benefit.—Present law provides a special minimum benefit for persons who have worked for relatively low wages for long periods of time; this special minimum benefit is equal to $8.50 for each year of coverage between 10 years and 30 years. The special minimum benefit is not increased when benefits generally are increased under the automatic cost-of-living benefit increase provisions. The Committee believes that all persons who have worked substantial periods for low wages should have their benefits increased when increases in the cost of living lead to an increase in social security benefits. The Committee bill therefore would provide that these special minimum payments would be increased whenever cost-of-living increases are effective. Accordingly, the bill would increase by seven percent (from $8.50 to $9.10) the amount payable for each year of coverage between 10 years and 30 years. This increase would be effective upon enactment, as would the general 7 percent benefit increase. A further increase to $9.50 a month (11 percent higher than present law) for each year of creditable coverage would go into effect for June 1974, and further increases would be made under the automatic cost-of-living provisions. Thus a person with 30 years or more of employment covered under social security, who is entitled to a special minimum benefit of $170 under present law, would have this increased to $182 upon enactment and further increased to $190 effective June 1974.

Automatic cost-of-living increases.—Under present law, the rise in the cost of living for the automatic benefit increase provisions is measured from the second quarter of one year to the second quarter of the next year with any resulting benefit increase payable for the following January. This results in a 7-month lag between the end of the period which is used to determine the rise in the cost-of-living for an automatic benefit increase and the payment of such increase. (The January check is actually received in February, 7 months after the close of the second calendar quarter.)

The committee believes that an increase under the automatic benefit adjustment provisions of the law should follow the rise in the cost of living as closely as possible. In order to achieve this purpose, the bill

would change the automatic adjustment provisions of the law to provide that future benefit increases be computed on the basis of the Consumer Price Index for the first calendar quarter rather than the second calendar quarter of the year as under present law and that the resulting automatic benefit increase be effective for June of the year in which a determination to increase benefits is made. This would reduce the lag between the end of the calendar quarter used to measure the rise in the cost of living and the payment of the resulting benefit increase from 7 months to 3 months. It would also mean that automatic benefit increases in the future would be payable in the month in which any revised premiums under the supplemental medical insurance program would be effective, thus providing the opportunity to make both adjustments in benefit checks at the same time.

Since the 11-percent benefit increase provided for in the bill approximately reflects the estimated rise in the cost of living into the second calendar quarter of 1974, the bill provides specifically that for purposes of determining the first automatic benefit increase effective

TABLE 1.—EFFECT OF BENEFIT INCREASE ON AVERAGE MONTHLY BENEFIT AMOUNTS FOR SELECTED BENEFICIARY GROUPS

Beneficiary group	Average monthly amount		
	Before 7-percent increase	After 7-percent increase	After 11-percent increase
1. Average monthly family benefits:			
Retired worker alone (no dependents receiving benefits)	$161	$173	$181
Retired worker and aged wife, both receiving benefits	276	296	310
Disabled worker alone (no dependents receiving benefits)	178	190	199
Disabled worker, wife, and 1 or more children	362	387	403
Aged widow alone	157	169	177
Widowed mother and 2 children	389	416	433
2. Average monthly individual benefits:			
All retired workers (with or without dependents also receiving benefits)	166	178	186
All disabled workers (with or without dependents also receiving benefits)	183	195	206

for June 1975, the increase in living costs would be measured from the second calendar quarter of 1974 to the first calendar quarter of 1975.

These changes would not affect the automatic adjustment provisions relating to the contribution and benefit base and the earnings limitation, except that these increases would occur periodically in January following a June benefit increase rather than in the same January for which benefits would be increased under present law. The bill specifically provides that the 11-percent benefit increase for June of 1974 provided for by the bill shall be considered an automatic benefit increase for purposes of permitting an automatic increase in the contribution and benefit base and the earnings limitation effective beginning January, 1975.

Protecting veterans' pensions.—When social security benefits are increased during the year, veterans' pensions are decreased beginning in the following calendar year (though in most cases by substantially less than social security benefits have been increased). To assure that veterans' pensions, widows' pensions, and dependency and indemnity compensation payments to parents of veterans are not decreased as a result of enactment of the bill, the Committee amendment contains a provision assuring that the 7 percent and 11 percent social security benefit increases will be disregarded for purposes of these payments.

Funding provisions.—The Committee would point out that at the time it considered the 5.9 percent benefit increase which under present law would occur with the benefits for June 1974, it had been advised that the automatic benefit increase scheduled for January 1975 would be between 7.1 percent and 8.5 percent above the current benefit levels. Subsequent rises in the cost of living, though, indicate that the benefit increase in January 1975 could be in the neighborhood of 11.5 percent above the current benefit levels were no change made in the law. In this connection it is important to keep in mind the effect that changing assumptions as to future rises in the cost of living have on estimates of future income and outgo. When the 5.9 percent benefit increase was adopted four months ago, the social security actuaries assumed a January 1975 benefit increase in the range of from 7 to 8.5 percent, based on projected increases in the cost of living. If the 1975 increase is about 7 percent, the social security trust funds would increase each year through 1977, but if it is as high as 8.5 percent, there will be a slight decrease in 1977. And if the January 1975 benefit increase is as high as 11.5 percent, as current actuarial estimates project it might be, the trust funds will decrease slightly from 1974 to 1977.

Although the Committee believes there is no cause to be concerned about the short-range financial stability of the program, the situation with regard to the long-range situation is not as clear. On July 13, 1973 (after the enactment of the 5.9 percent benefit increase) the Trustees of the social security trust funds sent their 1973 report to the Congress. This report indicated that the cash benefits trust funds had a long-range actuarial imbalance of −0.32 percent of taxable payroll, assuming a 7.1 percent increase in 1975; if the increase is 11.5 percent, as assumed in current estimates, the imbalance can be expected to rise to −0.76 percent.

With regard to the hospital insurance program, the Committee has been informed that the program is somewhat over-financed in the near future, and that a modification of the schedule of hospital insurance tax rates would be appropriate so as to reflect on a more current basis the year-by-year financial needs of that program.

Therefore, the Committee bill would modify the schedule of social security taxes to reduce the long-range actuarial deficit of the cash benefits program and to regulate the cash flow in the hospital insurance program to reflect more nearly the needs of that program. Thus, the social security tax base would be increased from $12,600 to $13,200 effective January 1974. The tax schedule would be modified as indicated in table 2 below:

TABLE 2.—SOCIAL SECURITY TAX RATES

[In percent]

Calendar years	OASDI		HI		Total	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
	Employer-employee, each					
1974 to 1977	4.85	4.95	1.00	0.90	5.85	5.85
1978 to 1980	4.80	4.95	1.25	1.10	6.05	6.05
1981 to 1985	4.80	4.95	1.35	1.35	6.15	6.30
1986 to 2010	4.80	4.95	1.45	1.50	6.25	6.45
2011 and after	5.85	5.95	1'45	1.50	7.30	7.45
	Self-employed					
1974 to 1977	7.00	7.00	1.00	0.90	8.00	7.90
1978 to 1980	7.00	7.00	1.25	1.10	8.25	8.10
1981 to 1985	7.00	7.00	1.35	1.35	8.35	8.35
1986 to 2010	7.00	7.00	1.45	1.50	8.45	8.50
2011 and after	7.00	7.00	1.45	1.50	8.45	8.50

The effects of the changes made by the Committee bill on the long-range financing of the program are shown in the following table:

TABLE 3.—CHANGES IN ACTUARIAL BALANCE OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM EXPRESSED IN TERMS OF ESTIMATED AVERAGE COST AS PERCENT OF TAXABLE PAYROLL, BY TYPE OF CHANGE, LONG-RANGE DYNAMIC COST ESTIMATES, PRESENT LAW AND THE COMMITTEE BILL

[In percent]

Item	OASI	DI	Total
Actuarial balance under present law	−0.48	−0.28	−0.76
$13,200 earnings base in 1974	+.04	+.01	+.05
Benefit increase and change in automatics	−.04	(1)	−.04
Modification of special minimum	−.05	(1)	−.05
Revised tax schedule	+.05	+.19	+.24
Total effect of change in bill	.....	+.20	+.20
Actuarial balance under bill	−.48	−.08	−.56

[1] Less than 0.005.

The changes the Committee bill would make in benefits and in the tax base are shown in table 4 and the effects of the bill on the social security trust funds are shown in tables 5 and 6.

TABLE 4.—BENEFIT INCREASES AND CHANGES IN THE EARNINGS BASE AND RETIREMENT TEST UNDER PRESENT LAW AND THE COMMITTEE BILL

Year	General benefit increase (percent)		Contribution and benefit base		Annual exempt amount under the retirement test [1]
	Present law	Committee bill	Present law	Committee bill	
Special increases [2]					
1973	.....	7.0	$10,800	$10,800	$2,100
1974	5.9	.....	12,600	13,200	2,400
Permanent increases: [3]					
1974	.....	11.0	12,600	13,200	2,400
1975	11.5	3.1	13,500	14,100	2,520
1976	4.0	3.1	14,400	15,000	2,640
1977	3.0	.....	15,300	15,900	2,880
1978	.....	5.8	15,300	15,900	2,880

[1] Amounts are the same under present law and under the committee bill.

[2] Under present law, as modified by Public Law 93-66, the special benefit increase of 5.9 percent is effective for June-December 1974; under the Committee bill, the special benefit increase of 7 percent is effective from the month of enactment through May 1974.

[3] The first permanent benefit increase (11.5 percent under present law and 11 percent under the Committee bill) will be figured on the benefit rates now in effect

TABLE 5.—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM: PROGRESS OF THE OASI AND DI TRUST FUNDS, COMBINED UNDER PRESENT LAW AND UNDER THE SYSTEM AS IT WOULD BE MODIFIED BY THE COMMITTEE BILL, CALENDAR YEARS 1973–78

[In billions]

Calendar year	Income		Outgo	
	Present law	Committee bill	Present law	Committee bill
1973	$54.8	$54.8	$53.4	$53.4
1974	61.4	63.1	58.9	62.4
1975	66.5	68.3	66.6	67.5
1976	72.6	74.5	72.7	72.9
1977	78.4	80.5	78.5	77.6
1978	82.0	85.2	82.3	83.5

Calendar year	Net increase in funds		Assets, end of year	
	Present law	Committee bill	Present law	Committee bill
1973	$1.4	$1.4	$44.2	$44.2
1974	2.6	.7	46.8	45.0
1975	—.1	.8	46.7	45.8
1976	([1])	1.6	46.6	47.4
1977	—.2	2.9	46.5	50.3
1978	—.3	1.7	46.2	51.9

[1] Outgo exceeds income by less than $50,000,000.

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and not on top of the special benefit increase (5.9 percent under present law and 7 percent under the committee bill). Permanent benefit increases under present law become effective for January of the stated year; under the Committee bill they become effective for June.

TABLE 6.—HOSPITAL INSURANCE: PROGRESS OF THE HOSPITAL INSURANCE TRUST FUND UNDER PRESENT LAW AND THE COMMITTEE BILL, CALENDAR YEARS 1973–78

[In billions]

Calendar year	Income		Outgo (same under present law and committee bill)
	Present law	Committee bill	
1973	$11.4	$11.4	$8.1
1974	13.1	12.1	9.8
1975	14.3	13.1	11.5
1976	15.7	14.3	13.0
1977	17.1	15.4	14.7
1978	22.0	19.4	16.6

Calendar year	Net increase in funds		Assets, end of year	
	Present law	Committee bill	Present law	Committee bill
1973	$3.4	$3.4	$6.3	$6.3
1974	3.3	2.3	9.6	8.6
1975	2.8	1.5	12.4	10.1
1976	2.7	1.2	15.1	11.3
1977	2.3	.7	17.5	12.0
1978	5.5	2.8	22.9	14.9

Social Security Agreements With Other Countries

(Sec. 107 of the bill)

The Committee bill includes a provision which would provide general authority for the President (or the Secretary of Health, Education, and Welfare, as his delegate) to enter into bilateral agreements (generally known as totalization agreements) with interested foreign countries to provide for limited coordination between the U.S. social security system and that of the other country. Under the amendment, each agreement with another country would be reported to the Congress and would become effective not earlier than 90 days later.

The Committee is informed that totalization agreements would be designed to benefit both workers and employers. An agreement would prevent the impairment of social security protection which results when a person works during his lifetime under the social security systems of two countries but is not eligible for benefits on the basis of his work in one of the two countries when he retires, becomes disabled, or dies. The agreement should also prevent undesirable dual coverage and dual employer and employee taxes with respect to the same work under the social security systems of two cooperating countries, such as may occur when Americans work in foreign countries for American employers.

An American-Italian totalization agreement has been negotiated under the authority of article VII of the Supplementary Agreement to the Treaty of Friendship, Commerce, and Navigation of September 26, 1951, between Italy and the United States. The initialing of this totalization agreement on May 23 by representatives of the United States and Italy signifies only that both governments agree to accept the text of the agreement for purposes of seeking formal approval of their respective legislatures. In the case of the United States, the committee amendment is needed, in addition to approval of the agreement itself, before the agreement can become effective.

The Committee has been advised that each agreement would have a small cost, mainly the cost of paying benefits to people who would not be eligible for benefits based solely on their earnings in the U.S. The cost of each agreement would vary with the number of people involved and the terms of the agreement. For example, the Secretary of Health, Education, and Welfare informed the Committee that the agreement with Italy could cost $900,000 in fiscal year 1975.

Exclusion From Coverage of Certain Farm Rental Income

(Sec. 108 of the bill)

Under present law, farm rental income is covered under social security if the rental arrangement provides that the landowner materially participate in the production of the agricultural or horticultural commodities on his land, and if there is material participation by the landowner. In determining whether the landowner's actions contribute in a material way to the production of the commodities raised on his farm, his own actions plus actions of his agent are considered. Actions by an agent are attributed to the farm landowner, so that if the agent participates in the management and operation of the farm, the farmowner is also deemed to be participating even though he does not personally participate.

A problem has arisen in the case of landowners who enter into an agreement with a professional farm management company or other person who has the responsibility to choose a tenant and to manage and supervise the farm operation. In such a situation, the landowner does not participate in the operation of the farm and views his income as investment income rather than income from farm self-employment.

Accordingly, the Committee bill provides that in such a situation the landowner would not be considered to participate in the operation of the farm. Therefore, his farm income would not count for social

security purposes if he entered into an agreement with another person to manage or supervise the farm operation, including the selection of tenants, when there is in fact no participation on his part.

Study on Cost-of-Living Benefit Variation

(Sec. 109 of the bill)

The cost of living may vary substantially in different geographic areas of the United States, and it may vary widely even within a State. Both social security cash benefits and supplemental security income (SSI) payments to aged, blind, and disabled persons are based on Federal law which provides the same treatment among the States and within a State. While it is clear that the adequacy of the same social security or SSI payment may differ depending on where the beneficiary lives, the problems of varying benefits in different areas have not been fully studied.

Accordingly, the Committee bill includes a provision directing the Department of HEW to study the various programs under the Social Security Act to determine the feasibility of relating eligibility criteria and benefit amounts to the cost of living in the State or in the locality within the State. In carrying out the study, the Department will develop a comprehensive cost of living index for each State as a whole, evaluate the effects of a State-by-State variation in benefits under the Social Security Act, consider the feasibility of making a cost of living adjustment only in those States where the cost of living is significantly higher than the national average, and determine ways of improving data on the cost of living.

Termination of Coverage for Policemen in Louisiana

(Sec. 110 of the bill)

The Committee bill adds a provision which would allow Louisiana to terminate social security coverage for certain policemen. Traditionally, the social security law has provided social security coverage for policemen in instances where the policemen themselves wish it, and where the State agrees to it. The 1973 Louisiana Legislature created a new Municipal Police Employees Retirement System. In a number of cases policemen who are covered under the social security program have hesitated to join the new system because they are unable to afford the cost of both programs. Under the present law, the only way these policemen who are covered under social security can terminate their coverage involves the termination of coverage for the entire group, policemen and all other employees. In order to avoid this situation, the Committee has adopted a provision which would permit the termination of coverage for policemen without affecting the coverage of other employees.

Under the Committee amendment, the State of Louisiana would be permitted at any time up through the end of 1974 to modify its coverage agreements so as to terminate the coverage of policemen who are eligible to join the Municipal Police Employees Retirement System without terminating the coverage of any other employees. Such

an agreement would terminate the coverage of the policemen concerned effective January 1, 1974.

Termination of Coverage for California Policemen and Firemen

(Sec. 111 of the bill)

The Committee was informed that in a number of instances, policemen and firemen in California who are covered under social security have subsequently been covered additionally by a pension plan specifically designed to meet the needs of policemen and firemen. In other instances, where policemen and firemen were covered under both social security and a pension plan, the pension plan has subsequently been greatly liberalized and made more expensive. As a result, some policemen and firemen face a financial burden in attempting to pay both social security contributions and substantial contributions required by their pension plan. If a State terminates social security coverage for such policemen and firemen, the termination must apply to all other employees in the coverage group, ordinarily all the employees of a State or political subdivision, except those engaged in a proprietary function of the State or subdivision. This, of course, often means that other employees who need and want coverage under social security lose protection under the program. In other cases, the termination desired by policemen and firemen is blocked by the opposition to the termination by other employees in the same coverage group.

In view of this, the committee bill adds a new provision which would allow the State of California to terminate coverage for policemen and firemen who are under a retirement system without affecting the coverage of other employees in the same coverage group. Terminations would be subject to the requirements of present law under which States wishing to terminate coverage must give the Secretary of Health, Education, and Welfare 2 years' advance notice; the notice can be given only after coverage of the group involved has been in effect for at least 5 years. The provision would also permit the reinstatement of social security coverage (with no break in continuity) of employees other than policemen and firemen whose coverage had been terminated by prior actions taken to terminate coverage of policemen and firemen, if a majority of the other employees vote to again be covered under social security.

III. TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES

(Sec. 112 of the bill)

Presently, no Federal income tax is generally paid by those with incomes at or below the poverty level. However, almost all employed persons pay social security taxes, regardless of how little income they may earn. The Committee bill includes a new tax credit provision which has the effect of refunding to low-income workers with children a large portion of the social security taxes they pay.[1]

[1] Self-employed persons are not eligible for the credit for the social security taxes they pay on self-employment income. Low-income workers who pay railroad retirement taxes are treated as if they pay social security taxes for purposes of determining the credit.

The Committee bill adds a new provision to the tax laws which provides that a low-income worker who maintains his household in the United States which includes one or more of his dependent children is to receive a credit equal to a specified percentage of the combined employer-employee social security taxes generated by his employment if his wages do not exceed $4,000. (This percentage of social security taxes is the equivalent of 10 percent of wages.) In the case of married taxpayers, the tax credit would be computed on the basis of the combined earnings of both the husband and wife.

If the total annual income of the taxpayer (and his spouse if he is married) exceeds $4,000, the tax credit is reduced by one-quarter of the excess above $4,000. With this phaseout, the tax credit is eliminated once the total income reaches $5,600 ($5,600 exceeds $4,000 by $1,600; one-quarter of $1,600 is $400, which subtracted from the maximum credit of $400 is zero).

In determining when an individual's "income" exceeds $4,000 for purposes of this tax credit, "income" is defined as including all his adjusted gross income, including certain income which is specifically excluded from the income tax base (for purposes of subtitle A of the Internal Revenue Code) and including certain transfer payments and payments for the general support of the taxpayer (such as social security, welfare, and veterans payments, and food stamps, but not transfer payments for medicare, medicaid, and the furnishing of prosthetic devices).

The size of the tax credit is shown on the table below for selected income levels:

Annual income of husband and wife (assuming it is all taxed under social security)	Tax credit
$2,000	$200
3,000	300
4,000	400
5,000	150
5,600	0

Individuals who are eligible to receive the tax credit may apply for advance refund payments of these amounts on a quarterly basis. Under this procedure, at any time after completion of the first calendar quarter, and before the expiration of the second quarter, an individual may apply for one-quarter of the tax credit he shall be entitled to receive based on his earnings in the first quarter, taking into account the earnings he expects to receive in subsequent quarters. After completion of the second quarter, application may be made for an additional payment (or for an initial payment if no advance refund payment had been made for the first quarter), up to an amount equal to one-half of the credit he may be entitled to receive for the year. A similar procedure may be followed after completion of the third quarter, but for the fourth quarter the tax credit is to be applied for in connection with the filing of the return (referred to below), after the end of the year, or claimed as a credit in the same manner as an overpayment of income tax. Applications for advance refund payments are to be filed with the Internal Revenue Service and are to be made in a manner prescribed by regulations. The Internal Revenue Service is expected

to make these payments as promptly as possible after the application (but not less frequently than once every three months). These payments are not to be included in the income of the taxpayer for income tax purposes, and are to be made regardless of any tax liability, or lack of it, on the part of the taxpayer.

No advance refund payment is to be made for any quarter to an individual who, on the basis of the income he (and his spouse if he is married) expects to receive during the entire year, is not eligible for a tax credit for the year. In addition, to eliminate *de minimis* claims, no quarterly advance refund payment of less than $30 is to be made.

At the end of the year, the individual who has received advance refund payments is required to file a return with the Internal Revenue Service setting forth the amount of income which he (and his spouse) had received during the year and the amount which he (and his spouse) had received as advance refund payments, together with such other information as may be required by regulations. (In addition, all agencies and departments of the United States Government are authorized and directed to cooperate with the Treasury Department in supplying information necessary to implement this provision.) It is expected that these applications and returns will receive as expeditious treatment as is reasonably possible by the Internal Revenue Service. These documents should be designed as simply as possible, taking into consideration the intent of this provision.

If the Internal Revenue Service determines that an individual has received advance refund payments in excess of the tax credit to which he was entitled for a year, it is to notify the individual of the amount due and collect the amount due. The excess payments may be collected by withholding from future tax credit advance refund payments the individual otherwise is entitled to receive, by treating the excess payments as a deficiency under the tax laws (such as by using the offset authority provided in Sec. 6402(a) of the Code), or by entering into an agreement with the individual providing for repayment.

Each document and application to be filed in connection with the tax credits is to contain a warning that statements made in such document or application are made under penalty of law. The provisions of the present tax law relating to crimes, other offenses, and forfeitures (chap. 75) and the general Federal criminal provisions relating to false or fraudulent statements (18 U.S.C. Sec. 1001) are to apply to all of these documents.

This provision is to become applicable to taxable years beginning after December 31, 1973; however, the first advance refund is not to be made before July 1974.

Revenue effect.—It is estimated by the Department of Health, Education, and Welfare that the tax credit provision would total roughly $700 million during the calendar year 1974, if the minimum wage is not increased. However, this cost will be partly offset by a $100 million savings in the Federal cost of Aid to Families with Dependent Children.

IV. SUPPLEMENTAL SECURITY INCOME

Increases in Supplemental Security Income Benefits

(Sec. 121 of the bill)

The new program of supplemental security income (SSI) is a federally administered program which will take over most of the responsibility of the former Federal-State programs of old-age assistance, aid to the blind, and aid to the permanently and totally disabled on January 1, 1974. It is estimated that over 3 million recipients under the State programs will move into the new program and that up to 3 million more people may be newly eligible for benefits under it.

In July 1973 there were 1,839,000 recipients of old-age assistance, 78,000 recipients of aid to the blind and 1,217,000 recipients of aid to the permanently and totally disabled. All of these recipients will qualify for the SSI program or for State payments supplementing SSI. The Federal Government will bear the full administrative costs of the SSI program and an option is provided to States for the Federal Government to administer any State supplemental payments, thereby relieving the States of very substantial administrative costs. Persons eligible for SSI must meet a standard test of need including both income and resources and as a group may be assumed to include a very high proportion of beneficiaries who are in greatest need because of recent rapid increases in the cost of living.

The committee considered it desirable to increase the benefits to these persons even before the social security benefit increase could become effective. Under existing law, benefits would be $130 for an eligible individual without other income and $195 for such an individual and a spouse from January to June 1974 and would be increased in July to $140 for an individual and $210 for a couple. The committee bill moves this increase forward to January 1. The bill would further increase these amounts to $146 and $219 on July 1 when the full social security increase occurs. The January increase is roughly proportionate to the 7-percent advance payment of the social security increase, and the July increase approximates the same percentage which the additional social security benefit increase in the July 1974 social security checks represents. Changes were made in the benefits of certain essential persons provided under Public Law 93–66 so that they will conform to a spouse's benefit as they did under that law.

Food Stamp Eligibility for Supplemental Security Income Recipients

(Sec. 122 of the bill)

Under the Social Security Amendments of 1972 (P.L. 92–603) individuals eligible for SSI benefits would have been prohibited from participating in food stamp or commodity distribution programs. However, the Congress this year substantially modified this provision in amending the Food Stamp Act.

The law enacted this year provides that an individual is ineligible for food stamps for a given month only if his SSI benefit (plus any State supplement) is at least equal to the amount of assistance plus the food stamp bonus he would have received under the State plan of old-age assistance, aid to the permanently and totally disabled, or aid to the blind as in effect for December 1973.

This would appear to require that in addition to having his eligibility determined under the provisions of the SSI program and any State supplementation program, an individual's eligibility would have to be determined under the State plan for aid to the aged, blind, or disabled which was in effect for December 1973. In some States this involves quite a complex and individualized budgetary analysis of needs. In addition, it would be necessary to periodically re-examine the individual's eligibility under the December 1973 State welfare plan to see if any of the variable factors applicable, such as the amount of rent paid, need for a special diet, etc., had changed sufficiently to affect the question of whether or not the amount actually payable under SSI was as great as the amount which would have been payable under the old welfare plan plus food stamps. It is quite possible, therefore, that an individual's eligibility for food stamps under this provision might vary from month to month and that in the same State there might be SSI beneficiaries who are eligible for food stamps and SSI beneficiaries who are not eligible for food stamps.

A determination under the prior welfare plan would have to be made not only for those SSI beneficiaries who were actually on the rolls in December 1973, but also for those newly eligible after that time. In addition, for purposes of determining eligibility for assistance under the prior welfare plan, the definition of disability and blindness in the new SSI program would be used if it is to the advantage of the beneficiary.

Another possible problem relates to the question of whether the mandatory State supplemental payments required under the new law enacted four months ago (P.L. 93–66) will be counted in determining food stamp eligibility. The provision in the Food Stamp Act literally provides for measuring the Federal SSI payments plus "payments described in section 1616(a)" (that is, optional State supplementary payments) against the prior welfare payments plus food stamps. Since the mandatory supplemental payments under P.L. 93–66 are technically not "payments described in section 1616(a)", it is at least possible that this provision might be so interpreted that an individual will be eligible for food stamps even though his SSI payment plus mandatory supplemental payment exceeded the amount which would have been available under the old welfare programs.

The Committee believes that the law enacted this year will be extremely difficult to administer and present substantial problems of unequal treatment in food stamp eligibility for SSI beneficiaries. Moreover, in some instances, recipients may lose valuable food stamp eligibility because their SSI benefits exceed by just a few dollars their prior welfare plus food stamp entitlement.

The Committee has decided that the best method of dealing with the problem of food stamps would be to simply repeal the prohibition in the Food Stamp Act against participation by SSI recipients in that

program (and the similar prohibition with respect to the commodity program.) This would eliminate any statutory requirement that eligibility for food stamps be determined on the basis of whether or not an individual is an SSI recipient rather than on the basis of his income. (Current food stamp regulations make welfare recipients eligible for food stamps even if their total incomes exceed the ordinary eligibility standards for food stamps.)

The Committee bill would also eliminate the provisions of P.L. 92–603 which, in effect, provide additional Federal funding to compensate States for raising their State supplemental levels to offset recipients' loss of eligibility for food stamps. However, for a period of up to 18 months, States which have raised their levels under this provision may be provided such Federal funding and, in those States, SSI recipients will be ineligible for food stamps during this period.

Limitation on Grandfather Clause for Disabled Individuals

(Sec. 123 of the bill)

In enacting the new SSI program for the aged, blind and disabled the Congress provided that disabled persons on the rolls in December 1973 would continue to be considered disabled, even if they did not meet the new Federal definition of disability, provided that they continued to meet the old State definitions in effect as of October 1972. The purpose of this provision was to make it unnecessary for the Social Security Administration to make a new determination of the disability of the 1.2 million current recipients of aid to the disabled.

New York City is apparently hastily examining all AFDC caretaker relatives for disability in order to place the maximum number on aid to the disabled. An article appearing in the New York Times of September 24, 1973, indicated that 65 percent of the first 10,000 welfare mothers screened were found to have severe disabilities. New York City plans to test 250,000 welfare mothers in a ten week period. This transfer of AFDC mothers to APTD would shift the cost from the Federal-State AFDC program to the Federal SSI program, with higher Federal and lower State costs. To prevent such a costly development the committee bill would amend the grandfather provision for disability to provide that only those persons who had received aid to the disabled before July 1973, and who are on the rolls in December 1973, would be deemed disabled without having to meet the Federal definition of disability under the SSI program.

Supplemental Security Income Recipients Who Live With AFDC Families

(Sec. 124 of the bill)

In P.L. 93–66, the Congress enacted a grandfather clause providing that SSI recipients who are now getting aid to the aged, blind, and disabled under State programs will receive State supplemental benefits sufficient to assure them no reduction in total income when the new SSI program goes into effect in January. The provision was designed

to achieve this objective while, at the same time, minimizing the administrative burdens to be placed on the Department of HEW which would have to administer the SSI benefits and, at least in most States, the supplemental benefits.

In most cases, the formula contained in P.L. 93–66 will achieve these two objectives in an acceptable way. However, in certain exceptional circumstances, an anomaly may arise in which the result of the provision in P.L. 93–66 will be to greatly increase the amount of assistance payable. This can happen in the case of individuals who are getting payments under the program of aid to the aged, blind or disabled, but who are also members of family units getting AFDC payments. In such cases there are two problems which can arise.

The first of these relates to the allocation of certain budget items such as shelter and utilities which are common to both the aged, blind and disabled individual and the rest of his family. Under the old law some or all of these items might have been attributed to the aged, blind, or disabled person, while under the new law, the amount of payment to the aged, blind and disabled is determined without reference to specific budget needs. Thus the full amount of these specific needs will apparently have to be added to the AFDC budget, raising the amount of the AFDC grant. This effect could be partially offset if the SSI recipient's contributions toward the costs of running the household could be considered to reduce the net amount of the family's needs. However, a provision of P.L. 92–603 (sec. 414) specifically prohibits counting the income and resources of an SSI recipient in determining the income and resources of an AFDC family.

A second part of the problem arises because some States allocate the income of an aged, blind, and disabled person to his entire family when doing so results in a higher total grant to the individual and his family. This will no longer be permitted after January 1974, but at the same time his total income (including that part now allocated to the rest of his family) must be counted in determining the mandatory State supplement under the grandfather clause in P.L. 93–66. The net result of this is that the State will have to provide an increased amount of assistance to his family (because the State can no longer count some of his income as the family's income) and will have to also provide an increased level of assistance to him (because it must count all of his income in computing the grandfather clause).

The committee bill corrects this situation by permitting a State to adjust the grandfather clause in such a way that it would assure the maintenance of the same level of total family income (rather than the maintenance of the *individual's* total income) in those cases in which the SSI recipient resides with an AFDC family. The bill provides, however, that the SSI recipient would be assured under the grandfather clause at least as great a total income as a comparable aged, blind or disabled person not living with an AFDC family and having no other income.

Special Supplemental Security Income Disregard Provision

(Sec. 125 of the bill)

The Social Security Act excludes from income, for purposes of determining SSI benefits, assistance furnished individuals by States if

it is based on need. Certain State benefits which are now payable to aged individuals without regard to need on the basis of their length of residence in a State will, however, reduce the amount of any supplemental security income payments dollar for dollar under present law. Unless the law is modified, States having such payments may simply discontinue them since without an exemption of this type the real beneficiary of the payments would be the Federal Government rather than the aged residents whom the State intended to help. The Committee would accordingly exclude from income, for SSI purposes, such State longevity payments to aged persons.

Demonstration Projects With Respect to the Aged, Blind, or Disabled

(Sec. 126 of the bill)

Section 1115 of the Social Security Act allows the Secretary of Health, Education, and Welfare to permit certain research and demonstration projects to operate by waiving some of the legal requirements otherwise applicable to assistance programs under the welfare titles of the Act (for example, the requirement of statewide uniformity and the requirement that assistance under such programs be made in the form of unrestricted money payments). Section 1115 also permits the costs of any such projects approved by HEW to be considered as expenditures under the appropriate welfare titles and, therefore, eligible for Federal matching.

Because Public Law 92–603 (H.R. 1) repeals the existing welfare titles of the Social Security Act dealing with the aged, blind, and disabled effective January 1, 1974, certain on-going demonstration projects may be adversely affected. The Committee bill would prevent this by authorizing the Secretary of HEW to make such waivers of the requirements of the new Supplemental Security Income program as may be necessary to permit the continued operation of the projects. The amendment would also authorize continued Federal funding of projects to the same extent as such funding would have been available if the former welfare programs for the aged, blind, and disabled had not been repealed. (In addition, the amendment permits the non-Federal share of the costs of such projects to be covered under the savings clause which limits non-Federal costs for State supplementary payments to 1972 levels.)

The amendment applies only to projects which were already approved prior to October 1, 1973.

Authority for Surviving Spouse of Deceased SSI Beneficiary To Cash Joint Check

(Sec. 127 of the bill)

Under the social security program, when benefits are payable on a single account to both a worker and his spouse, the couple has the option of receiving either two separate checks or a single check which combines the benefits payable to each of them. In the event of the death of one spouse, the Social Security Administration is empowered

to provide for the superendorsement of the joint check so that it may be cashed by the surviving spouse. Any resulting overpayment is corrected through adjustment in subsequent payments due the survivor.

Existing law does not, however, provide comparable superendorsement authority to the Social Security Administration in the case of Supplemental Security Income payments. Because of this, the Administration has decided not to issue joint checks to couples receiving SSI even where both husband and wife request that their benefits be combined in a single check. The Committee bill would remedy this by giving the Social Security Administration superendorsement authority with respect to SSI.

The Committee, accordingly, expects that the Administration will honor requests by couples who find it more convenient to receive a single check including both their payments. The Committee recognizes, however, that such a feature can not be implemented immediately because of the short time remaining before the SSI program becomes effective.

V. SOCIAL SERVICES

(Secs. 131 to 136 of the bill)

LEGISLATIVE BACKGROUND

Rapid rise in Federal funds for social services.—Like Federal matching for welfare payments, Federal matching for social services prior to fiscal year 1973 was mandatory and open-ended. Every dollar a State spent for social services was matched by three Federal dollars. In 1971 and 1972, particularly, States made use of the Social Security Act's open-ended 75 percent matching to increase at a rapid rate the amount of Federal money going into social services programs.

The Federal share of social services was about three-quarters of a billion dollars in fiscal year 1971, about $1.7 billion in 1972, and was projected to reach an estimated $4.7 billion for fiscal year 1973. Faced with this projection, the Congress enacted a limitation on Federal funding as a provision of the State and Local Fiscal Assistance Act of 1972.

Federal funds for social services limited in 1972.—Under the provision in the last year's legislation, Federal matching for social services to the aged, blind and disabled, and for services provided under Aid to Families with Dependent Children was subjected to a State-by-State dollar limitation, effective beginning fiscal year 1973. Each State is limited to its share of $2,500,000,000 based on its proportion of population in the United States. Child care services, family planning services, services provided to a mentally retarded individual, services related to the treatment of drug addicts and alcoholics, services provided a child in foster care, and (under a provision adopted this year as part of Public Law 93–66) any services to the aged, blind, or disabled can be provided to persons formerly on welfare or likely to become dependent on welfare as well as to present recipients of welfare. At least 90 percent of expenditures for all other social services, however, have to be provided to individuals receiving Aid to Families with Dependent Children. Until a State reaches the limitation on Federal matching, 75 percent Federal matching continues to be applicable for social services

as under prior law. Family planning services provided under the medicaid program are not subject to the Federal matching limitation.

Services necessary to enable AFDC recipients to participate in the Work Incentive Program are not subject to the limitation described above; they continue as under prior law, with 90 percent Federal matching and with funding of these services limited to the amounts appropriated. Federal matching for emergency social services is at a 50 percent rate.

In setting a maximum limit on the amount of Federal funds which would be available for social services programs, the Congress indicated its clear intent to stop the rapid and uncontrolled growth of the Federal commitment to this program. However, in the 1972 legislation the Congress did not alter the basic nature of the social services program nor did it express any intent that the level of Federal commitment to this program which had been reached should be cut back in any substantial way; in fact, the amount chosen as the new limit on Federal funding ($2.5 billion per year) represented a commitment to a continuation of at least the level of Federal funding which had then been reached. Furthermore, the 1972 legislation clearly delineated certain high priority types of services which the Congress felt should be available, not only to those already on welfare, but also to those who might in the absence of these high priority types of services be likely to become dependent upon welfare.

REGULATORY CHANGES BY THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

On May 1, 1973, the Department of Health, Education, and Welfare issued sweeping revisions in the Federal regulations under which social services programs are operated by State welfare agencies. These regulations, which were to have become effective on July 1, were strongly opposed by many groups and individuals who felt that they were in many respects contrary to the purposes which social services programs were intended by Congress to serve.

Eligibility for services.—Under the May 1 regulations, social services could have continued to be provided to cash assistance recipients and to former and potential recipients; however, the definition of former and potential recipients was considerably narrower than under the prior regulations. Services provided to former recipients would have had to have been provided within three months after assistance was terminated (compared with two years under the former regulations). Persons could have qualified for services as potential recipients only if they were likely to become recipients within six months and only if they had incomes no larger than 150 percent of the State's cash assistance payment standard. In the case of child care services, potential recipients with incomes above that limit but not more than 233⅓ percent of the cash assistance payment standard could have qualified for partially subsidized child care. Under the former regulations services could be made available to individuals likely to become recipients within five years and without any specific income tests. The former regulations also permitted eligibility to be established for some services on a group basis (for example, services could be provided to all residents of a low-income neighborhood). The new regulations would have not

permitted group eligibility but would have required the welfare agency to make individualized eligibility determination for each recipient of services.

Scope of services.—The May regulations would have limited the type of services which may be provided to 18 specifically defined services and would have limited to just a few services those which the States are required to provide. By contrast, the former regulations had a fairly extensive list of mandatory services, specifically mentioned a number of optional services, and allowed States to receive Federal matching for other types of services not spelled out in the regulations.

Procedural provisions.—The May 1 regulations would have changed a number of the administrative requirements imposed upon the States in connection with services; for example, the requirement of an AFDC advisory committee would have been dropped and the requirement of recipient participation in the advisory committee on day care services would have been eliminated. Similarly, a fair hearing procedure (as applicable to services) would no longer have been mandated. The regulations would have required more frequent review (every 6 months rather than each year) of the effectiveness of services being provided and would have required that agreements for purchase of services from sources other than the welfare agency be reduced to writing and be subject to HEW approval.

Refinancing of services.—The May 1 regulations would have denied Federal matching for services purchased from a public agency other than the welfare agency under an agreement entered into after February 15, 1973 to the extent that the services in question were being provided without Federal matching as of fiscal year 1972. This limitation on refinancing of previously non-Federal services programs would have been relaxed under the new regulations over a period of time and would have ceased to apply starting July 1, 1976.

CONGRESSIONAL ACTION TO POSTPONE NEW REGULATIONS

The new regulations issued by the Department on May 1, 1973 were objectionable to the Congress both because they contradicted specific provisions of law and because they were largely in conflict with the Congressional view of the basic purpose of the social services program and the legislative intent in imposing the $2.5 billion limit in 1972. Some specific statutory conflicts involved:

1. Limiting eligibility of former and potential assistance recipients for services on the basis of income when the statute permits the Secretary only to specify time periods in which an individual is to be considered a former or potential recipient;
2. Virtually precluding Federal matching for the family planning services States are required to offer and provide;
3. Precluding Federal matching for legal services related to establishing of paternity of children born out of wedlock, locating

fathers who have deserted their families, and trying to collect support payments from these fathers—all activities States are required to perform under present law;

4. Precluding Federal matching for medical services in connection with treatment of alcoholism and drug abuse and limiting Federal matching for services for the mentally retarded, despite the inclusion of both of these kinds of services as high priority services which may be provided without regard to whether the recipient of services is on welfare or not;

5. Limiting Federal matching only to services which support the attainment of the goals of self-support or self-sufficiency, in contrast to the statutory requirement that States develop a program of family services for the purposes of "preserving, rehabilitating, reuniting, or strengthening the family"; and

6. Ignoring the requirement that the Secretary prescribe services the State must make available to old age assistance recipients to help them attain or retain capability for self-care.

In a more basic way, the May 1 regulations posed the question of whether the 1972 Congressional action in placing a ceiling on Federal funding could be used by the Department to justify the issuing of regulations which would have the effect of altering the basic nature of the program to such an extent that, according to many witnesses who testified at the hearings held by the Committee in May of this year, the States would be unable to utilize a large part of the funding statutorily available to them under the $2.5 billion limit.

Because of the extensive nature of the changes which would have been made by the new regulations and the issues raised by those changes, the Congress did not have sufficient time to develop a legislative resolution of the policy issues before the new regulations were to go into effect on July 1, 1973. Instead, the Congress simply provided that no new social services regulations (other than those needed for technical compliance with last year's law) could become effective prior to November 1, 1973. This legislation did allow the possibility of implementing new social services regulations prior to the November 1, 1973 date, if the Administration obtained approval for any such regulations from the Senate Committee on Finance and the House Committee on Ways and Means. Though revisions in the regulations were proposed in the Federal Register in September, no attempt was made to obtain approval of new regulations from the two committees.

REVISED REGULATIONS

On September 10, 1973, the Department of Health, Education and Welfare published in the Federal Register a number of revisions in its earlier proposed regulations. Additional changes were made on October 31, 1973 when the Department published in the Federal Register the final set of regulations which went into effect on November 1,

1973. These changes do, to a certain extent, attempt to meet several of the specific statutory conflicts which were pointed out in connection with the earlier regulations. In particular, those related to legal services, family planning services, services for the mentally retarded, and treatment of alcoholics and drug addicts have been brought more in line with statutory provisions. However, the more basic questions raised by the new regulations remain unresolved under the November 1 regulations.

COMMITTEE PROVISION

Freedom from regulatory control.—The lengthy history of legislative and regulatory action in the social service area has made it clear to the committee that the Department of Health, Education, and Welfare can neither mandate meaningful programs nor impose effective controls upon the States. The Committee believes that the States should have the ultimate decision-making authority in fashioning their own social services programs within the limits of funding established by the Congress. Thus the Committee bill provides that the States would have maximum freedom to determine what services they will make available, the persons eligible for such services, the manner in which such services are provided, and any limitations or conditions on the receipt of such services.

States would not, however, be permitted to use Federal social services funds in such a way as to simply replace State money with Federal money. The bill requires that any increase in Federal funding used by a State to purchase social services must result in an increase in the level of services and not simply represent the purchase of the same services previously purchased with State funds.

The Committee bill provides that States may furnish services which they find to be appropriate for meeting any of these four goals: (1) self-support (to achieve and maintain the maximum feasible level of employment and economic self-sufficiency); (2) family care or self-care (to strengthen family life and to achieve and maintain maximum personal independence, self-determination, and security in the home, including, for children, the achievement of maximum potential for eventual independent living and to prevent or remedy neglect, abuse, or exploitation of children); (3) community-based care (to secure and maintain community-based care which approximates a home environment when living at home is not feasible and institutional care is inappropriate); and (4) institutional care (to secure appropriate institutional care when other forms of care are not feasible).

To illustrate the variety of services which States may provide with the available social services funds, the Committee bill includes a list of services which could be furnished. This list is not intended to limit the freedom of the States to provide other types of services.

The services listed are:

(1) day care services for children,
(2) day care services for children with special needs,
(3) services for children in foster care,
(4) protective services for children,
(5) family planning services,
(6) protective services for adults,
(7) services for adults in foster care,
(8) homemaker services,
(9) chore services,
(10) home delivered or congregate meals,
(11) day care services for adults,
(12) health-related services,
(13) home management and other functional educational services,
(14) housing improvement services,
(15) a full-range of legal services,
(16) transportation services,
(17) educational and training services,
(18) employment services,
(19) information, referral and follow-up services,
(20) special services for the mentally retarded,
(21) special services for the blind,
(22) services for alcoholism and drug addiction,
(23) special services for the emotionally disturbed,
(24) special services for the physically handicapped.

Any other types of services not fitting into any of these 24 categories could also be provided by the States in order to meet the goals of self support, family care or self care, community-based care, or institutional care. Through this mechanism the States will be able to construct programs to meet their particular needs within a predetermined amount of Federal funding without regulatory impediments which often have made planning and program development an impossibility. It is the Committee's belief that the mutual objective of the States and the Federal Government of reducing dependency upon welfare will be met most effectively by this approach.

While the Committee bill is designed to give the States maximum flexibility in designing and operating their social services program, the Committee feels that there should be a public record of the use which the States make of Federal social services funds. Accordingly, the Committee bill would require the States to submit an annual report on their use of funds for social services. The Committee expects that this report will show how much each State expended for each type of services. The report should also provide information on the extent to which social services funds were used for services to persons not actually on welfare and the extent to which such funds were used for the purchase of services from organizations outside the welfare agency. The Committee emphasizes that under this reporting require-

ment, the Department of Health, Education, and Welfare would have the duty of requesting appropriate information from the States and of transmitting that information to the Congress in the form of an annual report. The Department's responsibility for providing this annual report is not, however, to be interpreted as authorizing the Department to impose upon the States complex and burdensome reporting procedures. Nor is the reporting requirement to be interpreted as placing upon the Department the burden of conducting audits to provide detailed verification of these reports.

The Committee bill includes a repeal of the provisions enacted in P.L. 92–512 under which the proportion of the Federal social services funds which each State could use for non-welfare recipients was limited to 10 percent (except in the case of specified high priority services). The $2.5 billion annual limit on Federal funding for services is retained. The Committee bill also includes a provision making explicit in the statute that donated private funds, including in-kind contributions, will be considered State funds in claiming Federal reimbursement for social services where such funds are transferred to the State or local agency, are under its administrative control, and are donated on an unrestricted basis (except that funds donated to support a particular kind of activity in a named community shall be acceptable).

The new social services provisions would be effective as of November 1, 1973. However, the Committee bill would not result in fiscal 1974 Federal expenditures for social services exceeding $1.9 billion, the amount included in the President's budget.

Each State would be assured, for fiscal 1974, a level of social services funding sufficient to maintain the level of their expenditures for social services in the quarter which ended September 30, 1973. The difference between the amount necessary to meet this goal of maintaining current expenditure levels and $1.85 billion would be allocated on a population basis among those States requiring additional funding. No State would receive funding for fiscal year 1974 in excess of its allocation under the $2.5 billion limit enacted in 1972, except that $50 million would be available for allocation by the Secretary of Health, Education, and Welfare as necessary to prevent certain States (those which were eligible in fiscal 1973 for additional funding above their share of the $2.5 billion limit under a savings clause in Public Law 92–603) from falling below fiscal 1973 funding levels. It is anticipated that considerably less than $50 million will be required to meet this objective, and the Committee bill provides that the remainder be allocated by the Secretary to States which would otherwise be limited under the basic formula to a relatively small part of their regular allocation under the full $2.5 billion limit and which had, prior to November 15, 1973, adopted plans for an expansion of social services programs during fiscal year 1974. Part of this $50 million could also be used for funding programs with a potential for yielding a high level of benefit in relation to the costs involved.

The estimated State entitlements in fiscal years 1974 and 1975 are shown in table 7.

Table 7.—Estimated Distribution of Federal Social Services Funds Under Committee Bill, Based on HEW Adjusted Estimates of State Expenditures in First Quarter of Fiscal Fear 1974

[Dollars in thousands]

State	Estimated funding for fiscal year 1973	Fiscal year 1974 funding to continue current funding level [1]	Allocation of funds above current level (up to $1.9 billion)	Total fiscal year 1974 funding available under bill	Funding available in fiscal year 1975
Totals	$1,548,219	$1,598,096	[2 3] $301,904	[3] $1,900,000	$2,500,000
Alabama	16,279	19,980	5,032	25,012	42,140
Alaska	5,895	3,637	2,258	5,895	3,901
Arizona	3,182	3,400	2,788	6,188	23,351
Arkansas	7,236	7,488	2,835	10,323	23,747
California	211,584	221,733	24,000	245,733	245,733
Colorado	21,880	25,200	3,098	28,298	28,298
Connecticut	21,067	27,795	4,418	32,213	37,002
Delaware	9,297	6,783	2,514	9,297	6,783
District of Columbia	8,320	8,976	4	8,980	8,980
Florida	42,025	62,033	10,406	72,439	87,150
Georgia	48,488	48,000	6,766	54,766	56,667
Hawaii	2,321	7,564	1,160	8,724	9,712
Idaho	4,703	6,000	1,084	7,084	9,076
Illinois	131,371	68,904	16,128	85,032	135,076
Indiana	7,230	7,283	7,584	14,867	63,522

Table 7.—Estimated Distribution of Federal Social Services Funds Under Committee Bill, Based on HEW Adjusted Estimates of State Expenditures in First Quarter of Fiscal Fear 1974—Continued

[Dollars in thousands]

State	Estimated funding for fiscal year 1973	Fiscal year 1974 funding to continue current funding level [1]	Allocation of funds above current level (up to $1.9 billion)	Total fiscal year 1974 funding available under bill	Funding available in fiscal year 1975
Iowa	$12,674	$14,700	$4,133	$18,833	$34,612
Kansas	6,902	7,200	3,237	10,437	27.109
Kentucky	25,772	26,032	4,729	30,761	39,607
Louisiana	20,738	25,812	5,332	31,144	44,661
Maine	8,672	7,500	1,475	8,975	12,354
Maryland	26,897	45,872	2,823	48,695	48,695
Massachusetts	16,963	21,432	8,295	29,727	69,477
Michigan	55,341	75,000	13,019	88,019	109,036
Minnesota	29,317	32,000	5,585	37,585	46,774
Mississippi	11,541	9,000	3,244	12,244	27,169
Missouri	15,069	18,000	6,813	24,813	57,063
Montana	3,731	4,860	1,031	5,891	8,632
Nebraska	9,959	10,244	2,186	12,430	18,309
Nevada	1,751	1,980	755	2,735	6,327
New Hampshire	4,048	6,589	1,105	7,694	9,256
New Jersey	38,482	40,696	10,561	51,257	88,446
New Mexico	6,718	9,856	1,527	11,383	12,786

New York	220,497	220,497	0	220,497	220,497
North Carolina	20,317	30,293	7,423	37,716	62,598
North Dakota	3,998	4,495	906	5,401	7,588
Ohio	41,653	48,000	15,458	63,458	129,458
Oklahoma	24,806	28,216	3,407	31,623	31,623
Oregon	26,196	26,196	0	26,196	26,196
Pennsylvania	87,931	84,804	17,095	101,899	143,180
Rhode Island	9,418	9,212	1,387	10,599	11,622
South Carolina	9,752	13,520	3,820	17,340	31,995
South Dakota	2,469	2,340	974	3,314	8,152
Tennessee	24,956	20,000	5,778	25,778	48,395
Texas	99,087	90,544	16,698	107,242	139,855
Utah	5,479	5,400	1,614	7,014	13,518
Vermont	3,172	4,500	662	5,162	5,547
Virginia	20,212	24,310	6,829	31,139	57,195
Washington	49,672	35,168	13,271	48,439	41,336
West Virginia	8,171	13,520	2,553	16,073	21,382
Wisconsin	54,266	54,266	0	54,266	54,266
Wyoming	714	1,266	495	1,761	4,142

[1] 4 times the funding level attained in the July-September 1973 quarter (but not exceeding State's maximum allocation under $2,500,000,000 limit). Based on HEW adjusted estimates of State expenditures for that quarter.

[2] Allocation on population basis. Includes amounts (not exceeding amounts available for the 1st quarter of fiscal 1973 under sec. 403 of Public Law 92-603) necessary to maintain States at fiscal year 1973 funding level: Alaska, $1,994,000; Delaware, $2,514,000; and Washington, $8,336,000.

[3] Includes about $37,000,000 (not shown as allocated) available to States which have already planned an expansion of their service programs in fiscal year 1974 and for funding of high priority programs.

Source: Prepared based on material submitted by the Department of Health, Education, and Welfare.

VI. CHILD WELFARE SERVICES

National Adoption Information Exchange System

(Sec. 141 of the bill)

The Committee bill would authorize $1 million in fiscal year 1974 (and thereafter, such sums as may be necessary) for a Federal program to help find adoptive homes for hard-to-place children. The provision would authorize the Secretary of HEW to "provide information, utilizing computers and modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children for persons who wish to adopt children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoption."

This program is patterned after the Adoption Resource Exchange of North America (ARENA), which was established by the Child Welfare League of America in 1967. Its purpose is to bring together for adoption those children for whom public and private adoption agencies in the United States and Canada can find no adoptive families, and families for whom agencies have no children. A particular objective of ARENA has been to find more homes for children of minority groups, mixed racial background, and children with physical or psychological handicaps. Agencies register children who are waiting to be adopted, and families who are waiting to receive a child. Thus, ARENA makes the adoption agencies of North America a part of a large network of adoption resources. This effort helps to overcome uneven availability of homeless children and suitable adoptive families.

The Committee bill is aimed at making the program more effective by providing for the utilization of computers and modern data processing methods. Such a computerized system would encourage and make possible many more registrations of children and families than is presently possible.

Child Abuse and Neglect; Protective Services

(Sec. 142 of the bill)

Last year the Congress substantially increased the authorization for Federal grants to States for child welfare services. At the time, it was recognized that foster care represented the largest single child welfare expenditure on the county level, and it was anticipated that the bulk of the new funds authorized would be used to pay for foster care. Yet the law enacted last year did not earmark amounts specifically for foster care, for the Congress wished to permit States and counties to expand preventive child welfare services with the aim of avoiding the need for foster care wherever possible.

In its report on last year's Social Security Amendments, the Finance Committee stated:

> The committee urges States to eliminate any barriers hampering the provision of protective services to keep families together, and to make greater efforts to work with families wherever appro-

priate in order to prevent the need for placing children in foster care.

The Committee recognizes that child neglect and lack of protective services for children represent the most common situations which result in a need for foster care. The Committee bill builds on last year's Congressional action by specifically requiring States to play a more active role in detecting and dealing with child abuse and neglect so that children may remain in their homes.

Specifically, the Committee bill adds new requirements to both the AFDC program and the child welfare services program. States will be required as part of their AFDC program to provide services to prevent, identify, and treat child abuse and neglect and, wherever feasible, to make it possible for the child to remain in the home. If the situation has deteriorated to the point that the home is unsuitable, this fact will have to be brought to the attention of the appropriate court or law enforcement agency.

Similarly, new requirements are added to the child welfare services program requiring States to establish protective services for children to discover and report child neglect or abuse, with provision of services, where feasible, to make it possible for the child to remain in his home.

VII. CHILD SUPPORT

(Sec. 151 of the bill)

The problem of welfare in the United States is, to a considerable extent, a problem of the non-support of children by their absent parents. Of the 11 million recipients who are now receiving Aid to Families With Dependent Children (AFDC), 3 out of every 4 are on the rolls because they have been deprived of the support of a parent who has absented himself from the home.

The Committee believes that all children have the right to receive support from their fathers. The Committee bill is designed to help children attain this right, including the right to have their fathers identified so that support can be obtained. The immediate result will be a lower welfare cost to the taxpayer but, more importantly, as an effective support collection system is established fathers will be deterred from deserting their families to welfare and children will be spared the effects of family breakup.

Aid to Families with Dependent Children (AFDC) offers welfare payments to families in which the father is dead, absent, disabled or, at the State's option, unemployed. When the AFDC program was first enacted in the 1930's, death of the father was the major basis for eligibility. With the subsequent enactment of survivor benefits under the social security program, however, the portion of the caseload eligible because of the father's death has grown proportionately smaller, from 42 percent in 1940 to 7.7 percent in 1961 and 4.3 percent in 1971. The percentage of AFDC families in which the father is disabled has diminished from 18.1 percent in 1961 to 9.8 percent in 1971.

Absent fathers.—It is in those families in which the father is "absent from the home" that the most substantial growth has occurred. As a percentage of the total caseload, AFDC families in which the

father was absent from the home increased from 66.7 percent in 1961 to 74.2 percent in 1967, 75.4 percent in 1969, and to 76.2 percent in 1971.

In terms of numbers of recipients rather than percentages, 2.4 million persons were receiving AFDC in 1961 because the father was absent from the home. By 1967, that figure had grown to 3.9 million and by 1969 to 5.5 million. By the beginning of 1971, 7.5 million persons were receiving AFDC because of the father's absence from the home, and by the end of June 1973 that figure had grown to almost 8.3 million. Thus, in the past 5½ years, families with absent fathers have contributed about 4.4 million additional recipients to the AFDC rolls.

What kinds of families are these in which the father is absent from the home? Basically, they represent situations in which the marriage has broken up or in which the father never married the mother in the first place. In 45.2 percent of the AFDC families on the rolls in the beginning of 1971, the father was either divorced or legally separated from the mother, separated without court decree, or he had deserted the family. And in an additional 27.7 percent of the families receiving AFDC in 1971, the mother was not married to the father of the child. Applying that percentage to the June 1973 caseload, over 3 million AFDC recipients today are found in families where the father is not married to the mother.

Failure To Enforce Child Support

The enforcement of child support obligations is not an area of jurisprudence about which this country can be proud. Researchers for the Rand Corporation (Winston and Forsher, "Nonsupport of Legitimate Children by Affluent Fathers as a Cause of Poverty and Welfare Dependence", December 1971) cite studies that show "a large discrepancy exists between the normative law as expressed in the statutes and the law in action." Thousands of unserved child support warrants pile up in many jurisdictions and often traffic cases have a higher priority. The blame for this situation is shared by judges, prosecutors and welfare officials alike, and is reinforced by certain myths which have grown up about deserting fathers. The Rand researchers state:

> Many lawyers and officials find child suport cases boring, and are actually hostile to the concept of fathers' responsibility for children. A report to the Governor (of California) expresses concern at the "Cavalier attitudes on the subject of child support expressed by some individuals whose work responsibilities put them in daily contact with persons affected by the problem." It continues, "Some of these individuals believe that child support is punitive and that public assistance programs are designed as a more acceptable alternative to the enforcement of parental responsibility." The same phenomenon appears in our interview material.

The researchers dispute the myths about absent fathers that inhibit enforcement of support obligations:

> [The fathers] have not disappeared. Usually they were living in the same county as their children. They were not supporting many other children. Ninety-two percent of the nonsupporting fathers had a total of three or fewer children.

Only 13 percent were married to other women, with another 1 percent each divorced or separated from another or of unknown marital status. The nonwelfare fathers were more likely to have remarried; the welfare fathers were more likely to be still married to the "complaining witness."

The amount of child support awarded was not unreasonably large. For those nonsupporting fathers who were already under court order to contribute to their children's support, the typical payment ordered was $50 a month. In 33 percent of the nonwelfare cases, the order called for $50 or less.

The Rand Corporation researchers emphasize the number of well-off physicians and attorneys whose families ultimately are forced onto welfare because of insufficient mechanisms for enforcement of obligations to support. This situation, they point out, is confirmed by investigators, who point to the difficulty of proving the income of the self-employed, the ease with which unwilling fathers can conceal their assets, the statutory barrier to collecting from military personnel and Federal employees, and the low priority given child support investigations by the understaffed district attorneys' offices.

The Rand researchers further point out that although there is a lack of definitive statistics on the number of affluent fathers whose families are on welfare, census figures on poverty and AFDC caseloads are consistent with the hypothesis that much middle-class poverty is caused by fathers' nonsupport:

From 1959 to 1968, while the proportion of all families in poverty declined from 20 to 10 percent, and the rate for male-headed families went down to 7 percent, poverty among female-headed families increased to 32 percent. In 1970 it reached 36 percent, and 18 percent of college-educated female heads of families were poor—the corresponding figure for males is 3 percent.

During the years 1961 to 1968, middle-class women appeared on the AFDC rolls in large enough numbers to raise the average educational and occupational level of recipients. They become eligible for aid when prevented from working by serious problems—and they somehow managed, while still eligible, to go off the rolls at twice their proportion in the active caseload. How many went on welfare to obtain enforcement of child support orders?

Present Law

The Committee has long been aware of the impact of deserting fathers on the rapid and uncontrolled growth of families on AFDC. As early as 1950, the Congress provided for the prompt notice to law enforcement officials of the furnishing of AFDC with respect to a child that had been deserted or abandoned. In 1967, the Committee instituted what it believed would be an effective program of enforcement of child support and determination of paternity. The 1967 Social Security Amendments require that the State welfare agency establish a single, identified unit whose purpose is to undertake to establish the paternity of each child receiving welfare who was born out of wedlock and to secure support for him; if the child has been deserted or abandoned by his parent, the welfare agency is required to secure support

for the child from the deserting parent, utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support. The State welfare agency is further required to enter into cooperative arrangements with the courts and with law enforcement officials to carry out this program. Access is authorized to both Social Security and (if there is a court order) to Internal Revenue Service records in locating deserting parents. The effectiveness of the provisions of present law has varied widely among the States.

In its March 13, 1972, study of current child support programs in four States. the General Accounting Office noted that the Department of Health, Education, and Welfare

> has not monitored the States' child support enforcement activities and had not required the States to report on the status or progress of the activities. Consequently, HEW regional offices did not have information on the number of absent parents or amount of child support collections involved or the progress and problems being experienced by the States in collecting child support. Also, HEW regional officials have not emphasized child support collection activities within the total welfare program. . . . According to regional officials HEW has not emphasized the collection of child support payments because of a shortage of regional staff and because this activity represents a small segment of the total effort needed to administer the AFDC program. Regional officials informed us that they did not, at the time of our fieldwork, have any plans to evaluate the support enforcement programs or impose reporting requirements on the States.

On September 25, 1973, the Committee conducted a public hearing on child support. In response to a number of questions submitted at that hearing, the Department of Health, Education, and Welfare indicated that, although 18 months have passed since the critical GAO report, the Department still has no information with respect to such matters as: the extent to which the paternity of illegitimate AFDC children has been established, the extent to which court orders for the support of AFDC children have been obtained, the amount of support collections for AFDC children, or the amount of Federal matching funds devoted to the States' administrative expenses in connection with child support. In response to a question as to which States have an effective program, the Department stated that all States have submitted State plans which say they have a child support program but that:

> "HEW has not conducted a State by State study to determine how well States are meeting each of the requirements in Federal regulations.
>
> "Some Regional Administrative reviews have been conducted and you are no doubt familar with the recent GAO report. We know that a number of States are doing a creditable job, including California, West Virginia, and Washington."

A Committee staff survey of about 20 States elicited the information shown in table 8. Those States which did assess administrative costs in terms of support collected indicated that in general about twenty cents in collection costs resulted in a dollar return of support payments.

TABLE 8.—CHILD SUPPORT COLLECTIONS, ON BEHALF OF AFDC RECIPIENTS, FISCAL YEAR 1973

(In thousands)

	Amount Collected		Amount Collected
California	$53,000	Ohio	[1] $ 8,503
Florida	5,000	Pennsylvania	15,000
Georgia	8,000	Texas	3,908
Illinois	12,651	Vermont	407
Louisiana	5,471	Washington	7,706
Maryland	3,000	West Virginia	179
Massachusetts	17,016	Wisconsin	[1] 5,625
Michigan	28,100		
Nevada	219	Total	185,763
New York	11,978		

[1] Fiscal year 1972 collections: Latest available data.

Source: State estimates.

Of the group surveyed, the States of Washington, Massachusetts, Michigan, Wisconsin, and California would appear to have the best collection programs.

Committee Bill

In view of the fact that most States have not implemented in a meaningful way the provisions of present law relating to the enforcement of child support and establishment of paternity, the Committee believes that new and stronger legislative action is required in this area which will create a mechanism to require compliance with the law. The major elements of this proposal have been adapted from those States which have been the most successful in establishing effective programs of child support and establishment of paternity.

The Committee bill builds upon the provisions of existing law which are basically sound. It mandates more aggressive administration at both the Federal and local levels with various incentives for compliance and with penalties for noncompliance.

Federal Duties and Responsibilities

While the Committee bill leaves basic responsibility for child support and establishment of paternity to the States, it also envisions a far more active role on the part of the Federal government in monitoring and evaluating State programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them.

To assist and oversee the operations of State child support programs the Department of Health, Education, and Welfare would be required to set up a separate organizational unit under the direct con-

trol of an Assistant Secretary for child support who would report directly to the Secretary. This agency would review and approve State child support plans, evaluate and conduct annual and special audits of the implementation of the child support program in each State and provide technical assistance to the States to help them to establish effective systems for determining paternity and collecting support.

This assistance could, for example, stimulate innovative developments in this area by providing for the training of hearing examiners who would conduct pretrial hearings in cases of disputed paternity. Such examiners would have an expertise in evaluating the scientific evidence of paternity (e.g., the blood typing provided for elsewhere under the bill) which would not be true of judges generally. The findings of such examiners would have such weight that most persons found to be the father in a pretrial hearing would not find it profitable to continue to deny paternity, and, thus, a formal trial would usually not be necessary.

HEW would be specifically required to prescribe the organizational structures, minimum staffing levels (and types of staffing, e.g., attorneys, collection agents, locator personnel), and other program requirements which States must have in order to be found in conformity with the law. The Department would also be required to maintain adequate records of and publish periodic reports on the operations of the program in the various States and nationally.

HEW duties would also include approving applications from a State for permission to sue in Federal court in a situation where a prosecuting attorney or court in another States does not undertake to enforce the court order against a deserting father within a reasonable time. The originating State, under these circumstances, would be authorized to enforce the order against the deserting father in the Federal courts.

Penalty for State Non-compliance.—Up to now, the extent of HEW supervision of the child support program in most States has consisted of a perfunctory review of the State plan material submitted by the State to see that it contains the statement that there will be a child support program which complies with the law. Under the Committee bill, this paper compliance would no longer suffice.

HEW would have the duty of performing an annual audit in each State and of making a specific finding each year as to whether or not the child support program as actually operated in that State conforms to the requirements of law and the minimum standards for an effective support program which the bill requires the Department of Health, Education, and Welfare to establish. These audits are to be conducted by the new child support agency which the bill creates within the Department.

A State will not be found to have an acceptable program unless it adequately cooperates in obtaining child support payments from the absent parent of an AFDC child who resides in another State. In evaluating the adequacy of a State's cooperation with other States, the Secretary should give consideration to the effective implementation of the Uniform Reciprocal Enforcement of Support Act. States which are experiencing lack of cooperation with other jurisdictions in enforcing the provisions of this uniform act should promptly report this information to the Federal child support agency. If States must

request access to Federal courts because of the failure of a particular State to enforce actions originating out of the State, this should also lead the Secretary to question the effectiveness of that State's child support program. In evaluating State child support programs, the Secretary should take into account the Uniform Parentage Act recently approved by The National Conference of Commissioners on Uniform State Laws.

Attention is also called to the Uniform Act on Blood Tests to Determine Paternity which was adopted by the Commissioners in 1952 and has been enacted in various forms in 8 States. Although this Act should be updated to reflect the legislation proposed by the reported bill, this uniform law generally fits into the statutory scheme envisioned by the Committee.

The Committee expects the Secretary of Health, Education, and Welfare to study the support programs in the various States, consult with State and local enforcement officials and knowledgeable private experts in the field, and to derive and apply an objective set of criteria to evaluate the effectiveness of State programs of child support and determination of paternity.

If as a result of an annual or special audit of a State's child support program, the Department finds that the program is not being operated in accordance with its approved plan or otherwise does not meet the minimum standards imposed by Federal law and regulation, the Department would be required to impose a penalty upon the State. The penalty would equal 5 percent of the Federal funds to which the State was otherwise entitled as matching for AFDC payments made by the State in the year with respect to which the audit was conducted. To give the States reasonable lead time to develop effective programs, no penalties would be imposed with respect to years prior to January 1, 1976. However, the Committee expects the Department of Health, Education, and Welfare and the States to move as expeditiously as possible to establish improved child support programs.

Locating a Deserting Parent; Access to Information

An essential prerequisite to the establishment of paternity and/or the collection of child support is the matter of finding out where the absent parent is. Evidence seems to indicate that most absent parents continue to live in the locality or State in which their deserted families reside. States would be expected first to make use of local and State mechanisms for tracing absent parents. The bill would assist States in these efforts and also make it possible to find parents wherever they are living through the establishment of a parent locator service within the Department of HEW's separate child support unit. This unit upon request of (1) a local or State official with support collection responsibility under this program, (2) a court with support order authority, or (3) the agent of a deserted child not on welfare will make available the most recent address and place of employment which it can obtain from HEW files or the files of any other Federal agency, or of any State. Information of a national security nature or information in such highly confidential files as those of the Bureau of the Census would not be divulged.

As a further aid in location efforts, welfare information now withheld from public officials under regulations concerning confidentiality would be made available by the Committee bill; this information would also be available for other official purposes. The current regulations are based on a provision in the Social Security Act which since 1939 has required State programs of Aid to Families with Dependent Children to "provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of Aid to Families with Dependent Children." This provision was designed to prevent harassment of welfare recipients. The Committee bill would make it clear that this requirement may not be used to prevent a court, prosecuting attorney, tax authority, law enforcement officer, legislative body or other public official from obtaining information required in connection with his official duties such as obtaining support payments or prosecuting fraud or other criminal or civil violations.

As an additional tool in pursuing missing parents and to simplify the administration of the AFDC and Child Support Programs, the Committee bill would require applicants for AFDC to furnish their social security numbers to State welfare agencies. These agencies in turn would be required by the bill to use recipients' social security numbers in the administration of the AFDC program.

Collection of Support Payments by State and Local Agencies

The Committee believes that the most effective and systematic method for an AFDC family to obtain child support from a deserting parent is the assignment of the family support rights to the State government for collection. The Committee bill would require that a mother, as a condition of eligibility for welfare, assign her right to support payments to the State and cooperate in identifying and locating the father, in securing support payments, and in obtaining any money or property due the family. (The ineligibility of a noncooperating mother would apply only to her and not to her children. Assistance payments would be made to the children under a protective payment provision which would assure that the children get the benefit of such payments.)

The assignment of support rights will continue as long as the family continues to receive assistance. When the family goes off the welfare rolls, the deserting parent may be required, if the State wishes, to continue for a period not to exceed three months to make payments to the government collection agency (which will pay the money over to the family at no cost to them). This period will allow the collection agency time to notify the father that he will be making support payments in the future directly to the family, and to take any other necessary administrative actions.

The support obligation would become a debt owed by the absent father to the State. The amount of this debt would be determined by a court order if one were in existence. In the absence of a court order the amount of the obligation would be an amount determined by the State in accordance with a formula approved by the Secretary of HEW. Also, a provision has been included to assure that the rights of

the wife and child are not discharged in bankruptcy merely because the support obligation is a debt to the State.

Federal matching of the State administrative costs will be increased from 50 percent to 75 percent under the Committee bill. Such matching will apply to expenditures under the State or local support programs which will be composed of the following elements of existing law (with certain modifications) plus such other elements as the Secretary of HEW finds necessary for efficient and effective administration: (a) determination of paternity and securing support through a separate organizational unit; (b) cooperative arrangements with appropriate courts and law enforcement officials; (c) location of deserting parents including use of records of Federal agencies; (d) the location and enforcement of support orders from other States against the deserting parent.

It should be noted that the provision in the Committee bill would provide only that a separate organizational unit be established for enforcement of support obligations; the bill does not stipulate, as does existing law, that the organizational unit be in the welfare agency. Under the Committee bill, the States would be free to establish such a unit within or outside their welfare agencies (for example, it could be established in the State Attorney General's office). Under existing law, the States in administering their support collection and establishment of paternity programs are required to enter financial arrangements with courts and law enforcement officials in order "to assure optimum results". These financial arrangements for costs of law enforcement officials and courts directly related to the child support program will be subject to 75 percent Federal matching, but the Committee expects the States to continue to devote to this purpose at least as much non-Federal funding as they currently provide.

The Committee bill would allow the States to use the Federal income tax collection mechanism for collecting support payments. This mechanism would be available only in cases in which the State can establish to the satisfaction of HEW that it has made diligent efforts to collect the payments through other processes but without success.

Since the support obligations are not a tax and will change periodically in amount, the statutes of limitations on the collections of taxes assessed would be tolled by recertifications of the amount of the support obligation owed. For administrative reasons, the amount owed by a specific individual could not be certified more often than quarterly. A preexisting court garnishment order for support of another child against the absent father's wages would take precedence over this procedure.

Incentives for Localities To Collect Support Payments

Under present law, when a State or locality collects support payments owed by a father, the Federal Government is reimbursed for its share of the cost of welfare payments to the family of the father; the Federal share currently ranges between 50 percent and 83 percent, depending on State per capita income. In a State with 50 percent Federal matching, for example, the Federal Government is reimbursed $50 for each $100 collected, while in a State with 75 percent Federal

matching, the Federal Government is reimbursed $75 for each $100 collected.

In most States, however, local units of government, which would often be in the best position to enforce child support obligations, do not make any contribution to the cost of AFDC payments and consequently do not have any share in the savings in welfare costs which occur when child support collections are made. Since such a fiscal sharing in the results of support collections could be a strong incentive for encouraging the local units of government to improve their support enforcement activities, the bill would provide that if the actual collection and determination of paternity is carried out by local authority, the local authority would receive a special bonus based on the amount of any child support payments collected which result in a recapture of amounts paid to the family as AFDC. The bonus based on collections of the parent's support obligation would be 25 percent for the first 12 months of support obligations owed; subsequent collections recovered would result in a bonus of 10 percent. This bonus would come out of the Federal share of the amounts recovered.

Similarly, in the situation where the location of runaway parents and the enforcement of support orders is carried out by a State other than that in which the deserted family resides, the State or local authority which actually carries out the location and enforcement functions will be paid the bonus.

The Committee bill would provide that the Federal Government would have to be reimbursed for any Federal costs (other than for blood typing tests) incurred to aid the States and localities in their support collection and determination of paternity efforts. These costs for welfare recipients would, however, be subject to 75 percent Federal matching.

Establishing Paternity

The Committee is concerned at the extent to which the dependency on AFDC is a result of the increasing number of children on the rolls who were born out of wedlock and for whom parental support is not being provided because the identity of the father has not been determined. The Committee believes that an AFDC child has a right to have its paternity ascertained in a fair and efficient manner unless identification of the father is clearly against the best interests of the child. Although this may in some cases conflict with what a social worker considers the mother's short-term interests, the Committee feels that the child's right to support, inheritance, and to know who his father is deserves the higher social priority. In 1967, Congress enacted legislation requiring the States to establish programs to determine the paternity of AFDC children born out of wedlock so that support could be sought. The effectiveness of this provision was greatly curtailed both by the failure of the Department of Health, Education, and Welfare to exercise any leadership role and also by early court interpretations of Federal law which prevented State welfare agencies from requiring that a mother cooperate in identifying the father of a child born out of wedlock. Later court decisions, however, have made it clear that such aid could be denied to a noncooperating mother.

Current status of children born out of wedlock.—Children whose parents have never married present a serious problem of support and care. At common law such a child was a "son of nobody" and neither parent could be held responsible for it. The original laws imposing support of the child on a parent were enacted solely to prevent the community from having the child as a public charge. In many States, it is possible for the State's attorney, or the public welfare authorities, to bring an action against the man who is alleged to be the father of the child.

In taking the position that a child born out of wedlock has a right to have its paternity ascertained in a fair and efficient manner, the committee acknowledges that legislation must recognize the interest primarily at stake in the paternity action to be that of the child. Since the child cannot act on his own behalf in the short time after his birth when there is hope of finding its father, the Committee feels a mechanism should be provided to ascertain the child's paternity whenever it seems that this would both be possible and in the child's best interest.

Cooperation of mother.—The Committee bill would make cooperation in identifying the absent parent a condition for AFDC eligibility. However, the Committee feels it may be desirable to offer the mother a financial incentive to cooperate. To demonstrate the possible effectiveness of such an incentive, the Committee bill for the first year of the program provides that 40 percent of the first $50 a month in support collections for a family would be disregarded for purposes of determining the amount of welfare payments to the family. Thus, during this period, the family would always be better off if support payments are made by the absent parent.

Blood grouping laboratories.—The Committee is convinced that despite widely held beliefs to the contrary, paternity can be ascertained with reasonable assurance, particularly through the use of scientifically conducted blood typing. It is impressed by evidence that blood typing techniques have developed to such an extent that they may be used to establish evidence of paternity at a level of probability wholly acceptable for legal determinations.

In a book entitled *Illegitimacy: Law and Social Policy*, Harry D. Krause, Professor of Law at the University of Illinois, deals at great length with the value of blood typing in establishing paternity; he reports that the biological reliability of expertly performed blood tests has been estimated to be extremely high. An individual may be excluded from possibility as a father on the basis of blood tests: in addition, the probability of his being the father can also be computed quite precisely on the basis of blood typing. Professor Krause writes:

> We may conclude that even if blood typing cannot establish paternity positively in *medical terms*, the positive proof of paternity may reach a level of probability which is entirely acceptable in *legal* terms. In other words, blood typing results should be admissible as evidence even if an exclusion is not established. They should be entitled to whatever weight the fact that an exclusion was not established in a particular case should have—and that weight should be computed by an expert in terms of statistical probabilities. To put it very simply, if the blood constellation of father, mother and child is such that only a small percentage of a random sample of men would not be excluded

as possible fathers, then it is of considerable significance that this particular man (if he has been linked with this mother by other evidence) is not excluded. That "significance," of course, falls short of the absolute certainty involved in an exclusion but, in a given case, may equal that of other types of circumstantial evidence.

Blood grouping tests must be conducted expertly in order to avoid error; but the possibility of error can be all but eliminated if appropriate and well-known medical procedures are followed by experts. Three laboratories under U.S. Army control now do blood testing for use in paternity matters. However, sufficient facilities to perform expert blood typing are not currently available to the courts. Therefore, the Committee bill would provide that the Department of Health, Education, and Welfare be authorized and directed to establish or arrange for regional laboratories that can perform the highly sophisticated blood typing work necessary for purposes of establishing paternity for State agencies and the courts. Thus, such tests will be readily available by having specialized blood typing laboratories meeting the highest professional standards within a few hours of air mail shipment from any part of the country.

The Committee bill would provide that the Department of Health, Education, and Welfare be authorized and directed to establish or arrange for regional laboratories (including the refurbishing of existing facilities) that can do blood typing for purposes of establishing paternity, so that the State agencies and the courts would have this expert evidence available to them in paternity suits. The services of the laboratories would be available with respect to any paternity proceeding, not just a proceeding brought by, or for, a welfare recipient.

The Committee also wishes that the Department of Health, Education, and Welfare give support to research now being conducted under the auspices of a joint AMA–ABA study group which would develop standards for establishing the probative value of expertly conducted blood tests in the determination of paternity.

Attachment of Federal Wages

State officials have recommended that legislation be enacted permitting garnishment and attachment of Federal wages and other obligations (such as income tax refunds) where a support order or judgment exists. At the present time, the pay of Federal employees, including military personnel, is not subject to attachment for purposes of enforcing court orders, including orders for child support or alimony. The basis for this exemption is apparently a finding by the courts that the attachment procedure involves the immunity of the United States from suits to which it has not consented.

In a 1941 case (*Applegate* v. *Applegate*), the Federal District Court for the District of Columbia explained this position in this way:

> While the Congress has seen fit to waive the immunity of the United States from suit in the case of certain money claims against it and also in case of many of the corporations created by it, it has so far never waived that immunity and permitted attachment or garnishee proceedings against the United States Treasury

or its Disbursing Officers. This cannot be done either directly, or indirectly through the appointment of a sequestrator or receiver or by contempt order against the debtor defendant. *McGrew* vs. *McGrew*, 59, App. D.C. 230, 38 F. 2d 541.

This is not a question of any right of personal exemption on the part of the defendant Applegate but of the sovereign immunity of the United States from suits to which it has not consented.

In 1969 the tax law was amended to reflect the importance the Congress attributes to support payments by giving them a higher priority than tax liens in the collection of funds.

In 1971, the Administration, commenting on a proposal to permit the attachment of retirement pay of military personnel in connection with court orders for child support or alimony, opposed the proposal as extraneous to the bill being considered but noted:

> If there is sufficient reason to attach retired pay, the same reason undoubtedly exists for an attachment provision applicable to other Federal pays and annuities. Accordingly, the broader subject of attachment of all Federal pays and annuities for support of dependents may well deserve congressional attention as a matter in its own right. (House Report 92–481, p. 24.)

The Committee bill would specifically provide that the wages of Federal employees, including military personnel, would be subject to garnishment in support and alimony cases. In addition, annuities and other payments under Federal programs in which entitlement is based on employment would also be subject to attachment for support and alimony payments. This provision would be applicable whether or not the family upon whose behalf the proceeding is brought is on the welfare rolls. It would also override provisions in various social insurance or retirement statutes which prohibit attachment or garnishment.

Distribution of Proceeds

Under the Committee bill, the amount collected would be retained by the Government to partly offset the current welfare payment (except that for the first year of the program 40 percent of the first $50 collected will go to the family to increase income). If the collection is more than what is needed to fully offset the current month's AFDC payment, the additional amount up to the family's support rights as specified in a court order goes to the family. If there is still an excess above this, it is retained by the Government to offset past welfare payments. In any case in which a large collection is made which more than repays all past welfare payments, any such excess would go to the family. The amounts retained by the Government are distributed as between Federal and State Governments according to the proportional matching shares which each has under the AFDC formula.

States would be required to make the AFDC payment without a reduction for child support collections until the proceeds exceed the assistance payment. All collections of child support would be made by the separate organizational unit and no such payments would be made by the parent directly to the family until such time as the family is no longer eligible for assistance. In any month in which the amount of support collected is sufficient to completely repay the amount

of the assistance payment for that month, the family would not be considered to be eligible for AFDC for that month.

Support Collection for Non-Welfare Families

The Committee bill is designed primarily to improve State programs for establishing paternity and collecting support for children getting AFDC payments. The Committee recognizes, however, that the problem of nonsupport is broader than the AFDC rolls and that many families might be able to avoid the necessity of applying for welfare in the first place if they had adequate assistance in obtaining the support due from absent parents. Accordingly, the Committee bill would require that the procedures adopted for locating absent parents, establishing paternity, and collecting child support be made available to families even if they are not on the welfare rolls.

The expert blood typing services provided for in the bill would be available through a court in non-welfare cases without cost. In the case of parent location services, a fee would be charged in non-welfare cases. For other support collection services, States could charge an application fee which would have to be approved as reasonable by the Department of Health, Education, and Welfare, and States could deduct the remaining costs of collection from any amounts actually collected.

The collection activities for non-welfare families are thus envisioned as being self-financing, unless a State decides that it does not want to charge for the costs of the service. However, in the first year, financial support will be needed to put this part of the program in operation. Accordingly, the 75 percent federal matching for State costs would be provided for this part of the program for the first year of operation.

Effective Date

The garnishment of Federal wages would be effective January 1, 1974; the authorization of appropriations for the Department of HEW and the provision for the appointment of the Assistant Secretary for Child Support would be effective upon enactment; the penalty provision for ineffective State programs would not be imposed before January 1, 1976; and the other child support provisions of the Committee bill would be effective July 1, 1974.

VIII. AID TO FAMILIES WITH DEPENDENT CHILDREN

Pass-Along of Social Security Benefit Increase to AFDC Recipients

(Sec. 161 of the bill)

Under present law if Social Security benefits are increased, recipients of aid to families with dependent children (AFDC) who are also social security beneficiaries find their AFDC payment reduced one dollar for each dollar that social security benefits are increased. To assure that AFDC recipients who are also social security beneficiaries receive at least part of the benefit of the social security cost of living increase provided in the Committee bill, the Committee bill would also

require States, in determining need for AFDC, to disregard 5 percent of social security income. This provision would be effective as of the first month in which increased social security benefits are paid under the bill's social security benefit increase provisions.

Modification of Earnings Disregard Provision

(Sec. 162 of the bill)

Present law.—Under present law States are required, in determining need for Aid to Families with Dependent Children, to disregard:

1. All earned income of a child who is a full-time student, or a part-time student who is not a full-time employee; and
2. The first $30 earned monthly by an adult plus one-third of additional earnings. Costs related to work (such as transportation costs) are also deducted from earnings in calculating the amount of the welfare benefit.

Two problems have been raised concerning the earned income disregard under present law. First, Federal law neither defines nor limits what may be considered a work-related expense, and this has led to great variation among States and to some cases of abuse. Second, some States have complained that the lack of an upper limit on the earned income disregard has the effect of keeping people on welfare even after they are working full time at wages well above the poverty line.

Committee provision.—The committee bill would deal with both of these problems by modifying the earnings disregard formula and by allowing only day care as a separate deductible work expense (with reasonable limitations on the amount allowable for day care expenses). Under the Committee bill, States would be required to disregard the first $60 earned monthly by an individual working full time ($30 in the case of an individual working part-time) plus one-third of the next $300 earned plus one-fifth of amounts earned above this. The differential between full time and part time employment is designed to encourage recipients to move into full time jobs.

Community Work and Training Programs

(Sec. 163 of the bill)

Prior to the enactment of the Work Incentive Program as part of the 1967 Social Security Amendments, the Federal AFDC statute permitted Federal matching of AFDC payments made to recipients participating in a community work training program. Since the enactment of the WIN program, however, the Department of Health, Education, and Welfare has taken the position that the Federal Government will not share in AFDC payments to recipients who are required by State law to participate in an employment program—unless the program either is part of the Work Incentive Program or is administered under the Economic Opportunity Act. This has been true even though the Work Incentive Program was not in effect in all areas of a State.

Under the committee bill, the community work training provisions in the law prior to the 1967 amendments would be reenacted so that States wishing to have such programs could do so under the standards provided by the legislation.

Authority for States To Operate Demonstration Projects Making Employment More Attractive for Welfare Recipients

(Sec. 164 of the bill)

The Committee notes that under existing law, there is considerable authority at the Federal level to carry on research and demonstration on better ways of developing work incentives for welfare recipients. Exclusive use of this approach, however, ignores one of the basic strengths of federalism; namely, that individual States should be free to experiment with better ways of solving Governmental problems. A number of States have attempted to institute innovative employment programs for welfare recipients but they have been inhibited by HEW because of its slowness to act under current demonstration authority. The Committee bill will alleviate this situation.

Present law

Section 1115 of the Social Security Act allows the Secretary of Health, Education, and Welfare to waive any of the State plan requirements of the Federal welfare law for the sake of experimental, pilot, or demonstration projects which in the Secretary's judgment are likely to assist in promoting the objectives of the welfare programs.

Proposal

Under the Committee bill, this authority would be both broadened and made more explicit to emphasize a major objective for demonstration projects. This objective is to permit States to achieve more efficient and effective use of funds for public assistance recipients to reduce dependency, to improve the living conditions and increase the incomes of persons who are on assistance (or who would be on assistance if they were not participating in the demonstration project) by conducting experiments designed to make employment more attractive for welfare recipients.

States would be limited to not more than 3 demonstration projects under this authority; one of the projects could be Statewide. None of the projects could last for more than two years, and all authority for the projects would terminate June 30, 1976.

In pursuing these objectives under the Committee bill, States would be permitted for demonstration purposes to waive the requirements of the Aid to Families with Dependent Children program relating to (1) Statewideness; (2) administration by a single State agency; (3) the earned income disregard (but in no case could a State offer an earned income disregard of more than 50 percent); and (4) registration in the Work Incentive Program and other requirements related to that program. The State could waive any or all of these requirements on its own initiative unless and until the Secretary disapproved the waiver as inconsistent with the purposes of section 1115 and the AFDC law. If the waiver was disapproved by the Secretary, the demonstra-

tion project would terminate by the end of the month following the month in which it was disapproved.

As part of a demonstration project, the State could use welfare funds to pay part of the cost of public service employment. The State could then take this amount and add additional amounts to pay a wage substantially higher than the amount of the welfare payment. Under the Committee bill, revenue sharing funds could be used for the non-welfare share of the salaries. Wages of project participants could not be higher than that for similar work in the community. The conditions of public service employment which apply to the Work Incentive Program (relating to health and safety standards, no displacement of employed workers, working conditions, and workmen's compensation) would also apply to public service employment under these demonstration projects. The State welfare agency would also be free to contract with non-profit private institutions organized for a public purpose, such as hospitals, to carry out such projects.

When unemployed fathers are placed in public service employment, Federal matching will continue for the portion of the salary equal to the former welfare payments and it will be available for wage payments.

Public Service employment is not the only type of experimentation authorized by the Committee bill. States may wish, for example, to experiment with the income disregard. If they do so, however, they will not be allowed to conduct a test which disregards more than one-half of a welfare recipient's earned income.

Participation by welfare recipients in the demonstration projects would be voluntary.

The costs incurred by the States in conducting demonstration projects under this provision of the Committee bill would be eligible for the same Federal matching as applies to other costs of the AFDC program, subject to the limitation that the amount matchable with respect to any participant in the project may not exceed the amount which would otherwise have been payable to him under the regular provisions of the AFDC program. Thus, these projects should not result in increased Federal expenditures.

IX. MEDICARE AND MEDICAID AMENDMENTS

Amendments Relating to Medicaid Eligibility for Recipients Under the Supplemental Security Income Program

(Sec. 171 of the bill)

A. Conforming Changes

Under present law Medicaid eligibility is linked to eligibility for cash assistance under the Federal-State programs for the aged, blind, disabled or families with dependent children. Actual recipients of cash assistance are automatically eligible for Medicaid. In addition, States at their option may extend Medicaid eligibility to persons eligible for cash assistance but who are not actually receiving a payment and to persons who would receive a payment except for their residence in a medical institution. A State may also choose to cover persons whose income or resources make them ineligible for a

cash assistance payment, but who need help in meeting medical expenses; these persons are defined as medically needy.

When Congress passed the Supplemental Security Income (SSI) program, which next January will replace the Federal-State cash assistance programs for the aged, blind and disabled, by oversight the necessary conforming changes were not made in the Medicaid (Title XIX) law to reflect the Federalization of the adult categories under Title XVI. Medicaid eligibility is thus linked only to eligibility for cash assistance under the old Federal-State programs which expire December 31, 1973.

The Committee bill therefore makes the necessary conforming changes, effective January 1, 1974, to allow Federal matching under Title XIX for persons eligible for the SSI program.

B. Mandatory Extension of Medicaid Coverage

States are required by P.L. 93–66, as a condition for Medicaid matching, to pay a mandatory supplement to any recipient of assistance in December 1973 who is receiving more than the Federal SSI amount, until such time that his income changes or he otherwise becomes ineligible. All persons who would qualify for the mandatory supplement are eligible for Medicaid under current law on the basis of their receipt of cash assistance. Although the Congress required States to pay a mandatory supplement to persons on the rolls in December who receive more than $130 under the current cash assistance programs (due to rise to $140 under the Committee bill), it did not specifically require that States continue Medicaid benefits for these persons. If States are given the option as to whether to cover persons who receive only a State supplementary payment, some current recipients may lose coverage and be disadvantaged by the changes resulting from the new SSI program.

The Committee bill therefore requires States to continue Medicaid coverage for persons who receive mandatory State supplementary benefits until such time as the person becomes ineligible for the mandatory supplement. Since these are persons who are already covered under the current Medicaid program, this would not represent an increased cost to the States. For all other recipients of State supplements only (that is, persons coming on the rolls for the first time after December 1973 whose income is too high for them to be eligible for SSI payments but who are eligible for a State supplementary payment), the State would have an option as to whether they would cover them.

C. Medicaid Eligibility Determinations

Under present law, all aged, blind, and disabled recipients of cash assistance are automatically eligible for Medicaid, and Federal matching is available for medical services provided to them. The SSI payment levels are higher than present payments to the aged, blind, and disabled in a number of States; in order not to impose a substantial fiscal burden on these States, a provision was written into the Medicaid law allowing a State the option of either covering all SSI recipients or not covering the newly eligible SSI recipients who would not have met the State's January 1, 1972 standard for determining Medicaid eligibility. However, the provision did not specify the criteria for Medicaid

eligibility which would be applicable to persons receiving State supplementary payments only.

The Committee notes that making all persons who receive an SSI payment eligible for Medicaid matching does not automatically assure that all recipients of cash payments authorized under the new Title XVI (SSI program) will be eligible for Medicaid matching. Some persons will receive only a State supplementary payment; because their countable income is more than $140 ($146 effective July 1, 1974) they will not receive an SSI benefit. Many of these persons are currently eligible for Medicaid on the basis of their receipt of cash assistance under the current adult titles and therefore would continue their eligibility under the Committee amendment. However, persons newly eligible for cash payments as State-supplement-only individuals would be precluded from coverage if States are not allowed Medicaid matching to cover these persons as cash assistance recipients for purposes of Title XIX. In States with a medically needy program such persons could become eligible after incurring medical expenses equal to the difference between their income and the State's medically needy standard. In States without a medically needy program, State-supplement-only individuals would be excluded unless the State chose to institute such a program.

The Committee amendment would allow all States the option of covering all persons or a reasonable classification of persons who receive only State supplementary payments under Medicaid, regardless of whether the supplement is federally or State administered. Eligibility must, however, be based on rational classifications (such as the aged, or the blind, or the disabled or persons in domiciliary care).

The Social Security Amendments of 1972 included a provision requiring States who do not cover all SSI recipients under Medicaid to make eligible aged, blind or disabled persons who meet all other eligibility requirements and whose medical expenses reduce their income to the medical assistance eligibility level. Here, too, a clarification is needed.

The Committee bill specifies that persons who become eligible for Medicaid under this "spend-down" provision will be deemed "categorically needy" (that is, the equivalent, for Medicaid purposes, of cash assistance recipients) in States which do not have medically needy programs. In States which cover the medically needy, such persons would be deemed categorically needy if (1) they are receiving or are eligible to receive a State supplementary payment and similarly situated individuals are similarly treated; or (2) they are an individual or spouse eligible to receive a Title XVI benefit. Persons not meeting the income criteria for cash assistance would be deemed medically needy.

D. Medicaid Coverage of Institutionalized Individuals

Under current law, States are permitted to make institutionalized individuals eligible for Medicaid by declaring that such persons would need cash assistance if they were outside the institution. States establish this standard of need (usually higher than the standard applicable to noninstitutionalized individuals) in their cash assistance programs for the aged, blind, and disabled.

Allowing States to cover under Medicaid any persons (or reasonable classification of persons) receiving State supplementary payments, combined with the option of providing Medicaid to anyone who would need a supplement if they were outside the institution, would potentially allow States to make all persons in nursing homes eligible for federally-matched Medicaid services, regardless of their income. Any nursing home patient who could not pay his nursing home bill could simply be deemed to be in need of a supplementary payment and therefore eligible for Medicaid. There would be no limit on what income level the State could set in order to bring in Federal Medicaid matching dollars for its institutionalized population.

In recognition of this problem, the Department of HEW has recommended limiting the income level at which a person could be deemed to be in need of a supplementary payment when he was in a nursing home to 133⅓ percent of the State's July 1972 payment standards for cash assistance (or, if higher, 133⅓ percent of the adjusted payment level). Application of this standard would result in considerable hardship for institutionalized individuals residing in the 26 States which do not have medically needy programs. The standard suggested by the Department would result in great variation between the States in their ability to make nursing home patients eligible for Medicaid. Georgia and Arkansas, for example, could not cover people with countable incomes of more than $150.

The Committee bill therefore allows a State to deem an institutionalized person in need of a supplementary payment if his income is within 300 percent of the SSI benefit level applicable to a noninstitutionalized individual with no other income. In effect, this would mean that an institutionalized person with an income of up to $420 a month before application of any income disregards ($438 a month effective July 1, 1974) could be eligible to have Medicaid matching payments made in his behalf. This limitation would be the same nationwide and so would treat all States equitably, would allow most nursing home recipients to be covered, and yet would assure that nursing home patients would be reasonably in need when compared to other Medicaid eligibles. The Committee notes that this limitation would not apply to current Medicaid eligibles in nursing homes who were grandfathered into continued Title XIX coverage by Section 231 of P.L. 93–66.

Health Maintenance Organizations Under Medicaid

(Sec. 172 of the bill)

Under present law, States may enter into contracts with health maintenance organizations (HMO's) for providing Medicaid services to Medicaid eligibles virtually without restriction. The Committee is concerned that capitation payments to HMO's may be higher than those a State might pay if the patients were treated outside of the HMO. The Committee is also concerned that, unlike the case with Medicare, there are no statutory requirements with respect to basic quality of care standards applicable to Medicaid HMO's to protect recipients.

In general, the Committee believes that the appropriate quality assurance standards and reimbursement limitations on capitation pay-

ments for HMO's participating in the Medicare program, as set forth in Section 1876 of the law, should, with certain exceptions and modifications, constitute requirements for participation under title XIX. These include requirements for services of a sufficient number of primary and specialty care physicians, effective arrangements to assure access to qualified practitioners in those specialties which are generally available in the area, demonstrated proof of financial responsibility and capability to provide comprehensive health services, and assurances that required health services are delivered promptly and appropriately. The Committee recognizes, however, that certain exceptions to the Medicare provisions must be made to take into account the differences between the two programs.

While it is not known how many of the HMO's currently participating under Title XIX through provision of services on a capitation basis to Title XIX eligibles would be unable to meet the general standards set for participation in Title XVIII, it is apparent to the Committee that the requirements as to minimum enrollment and the required two years of previous experience might hinder State efforts to enroll recipients in newer and otherwise qualified and capable developing organizations. Thus the Committee amendment authorizes incentive capitation payments to otherwise qualified organizations without requiring that they have at least two years of operating experience.

The Committee has also included in its amendment an alternative enrollment standard which appears more appropriate to Medicaid. This standard sets a required minimum enrollment of 5,000 individuals, in general, at least half of whom may not be Title XVIII or XIX recipients. This minimum enrollment requirement is less than the 25,000 minimum required for Medicare.

The Committee amendment also provides that the reimbursement method and types and amounts of allowable expenses otherwise recognized for reimbursement must be substantially the same as those under Section 1876 of Title XVIII.

While *individual* capitation may be appropriate for Medicare, it is not appropriate for Medicaid except with respect to persons eligible for old-age assistance and similar situations where assistance eligibility is individually determined. In the case of families, the Secretary should by regulation require HMO's to be reimbursed on a family capitation basis and not in terms of an individual rate for each family member. Similarly, calculations of costs outside the HMO should be made on a family basis.

Medicaid: Payment to Substandard Facilities

(Sec. 173 of the bill)

Section 249D of P.L. 92–603 amended Title XI of the Social Security Act to provide that there will be no Federal matching payment available under the cash assistance titles for a payment made to a person in an institution to the extent that the payment is made for institutional care which is or could be provided under Title XIX. The Committee included this provision in P.L. 92–603 to prohibit the practice existing in some States whereby the State used its cash grant programs to finance care in institutions which were ineligible for matching under

Medicaid because they did not meet Medicaid standards of health and safety. Federal matching for cash payments provided for this purpose were prohibited.

With the implementation of the SSI program, there will no longer be any formal Federal "matching" in the cash assistance programs for the aged, blind and disabled. The basic Federal payment, however, represents a matching payment in that States use it as a base for any State supplementary payment amounts. Section 249D as presently worded may not be sufficient to preclude States from providing a supplementary payment which, in combination with the basic Federal benefit, could be used to circumvent the institutional health and safety standards of Title XIX by paying for inpatient institutional care in substandard nursing homes which could be provided through the cash grant program.

The Committee bill, therefore, amends Title XVI to provide that the Federal SSI payment will be reduced dollar for dollar for any State supplementary payment (or State vendor payment to an institution) which is made for care provided to an institutionalized individual if this care could be provided under the State's Medicaid program.

Federal Matching Under Medicaid for Care to Indians

(Sec. 174 of the bill)

Under the Indian Health Service Program of the Public Health Service Act, full Federal financing is available for the cost of providing health services to Indians. In States with a Medicaid program, Indians may receive covered care if they meet the appropriate eligibility criteria.

The Federal portion of payments made by States under Medicaid ranges between 50–83 percent of the reasonable cost of covered services.

The Committee notes that with respect to matters relating to Indians, the Federal Government has traditionally assumed major responsibility. The Committee wishes to assure that a State's election to participate in the Medicaid program will not result in a lessening of Federal support of health care services for this population group, or that the effect of Medicaid coverage be to shift to States a financial burden previously borne by the Federal Government.

The Committee has therefore included an amendment which will increase the Federal matching under Medicaid (effective January 1, 1974) to 100 percent with respect to services provided individuals who at any time during the year preceding the month in which the services were received were eligible for services under the Indian Health Services Program and resided on or adjacent to a Federal Indian Reservation.

Buy-In Agreement Under Medicare

(Sec. 175 of the bill)

Under current law, Federal matching payments for Medicare Part B premiums for public assistance recipients in a State may be made to a State only if it has a Medicaid program.

The Committee is concerned that this results in an inequitable hardship on Arizona, which is not currently participating in the Medicaid program.

The Committee bill therefore includes an amendment which provides that, effective January 1, 1974, a State which did not have a Medicaid program as of October 1, 1973 shall be deemed to have a Medicaid program for purposes of Federal matching for the buy-in under Part B of Medicare for covered individuals.

Payment for Supervisory Physicians in Teaching Hospitals

(Sec. 176 of the bill)

Section 227 of P.L. 92–603, the Social Security Amendments of 1972, dealt with payment for supervisory physicians in teaching hospitals. The primary objective of the provision was to make it clear that fee-for-service reimbursement should be paid for the teaching physician's services only where the patient is a bona fide private patient. The Report of the Committee on Finance which accompanied the provision explained its concept of "private patient" in some detail. However, because of the extremely wide variety of teaching programs throughout the country and the lack of reliable data on the character of the professional care and the nature of the financial arrangements established to support the physicians' services rendered in them, the law authorized the Secretary to define "private patient" by regulation.

In its comments to the Department of Health, Education, and Welfare on the regulation proposed by the Secretary to define "private patient" for Medicare reimbursement purposes, the Association of American Medical Colleges submitted a report to the Secretary which, among other things, assessed for the first time the financial and programmatic impact of the proposed regulations on six unnamed member medical schools and teaching hospitals. While the data presented in this study are far too limited to serve as a basis for drawing conclusions about the appropriateness of the proposed regulations, they do raise questions about the impact of both the present and proposed reimbursement policies which deserve further study.

The committee amendment would authorize and direct that a more extensive study be done including at least 40 or 50 hospitals.

The study, which would be carried out at medicare expense, would encompass all aspects of third party financing for professional services rendered in the medical school and teaching hospital setting. The study would be carried out by personnel of the Social Security Administration who would be assisted to the extent they deem appropriate by personnel from the Association of American Medical Colleges as well as others with necessary expertise. In view of the limited time in which the study must be completed and for reasons such as the broad scope of the undertaking, the Committee would assume that the Social Security Administration would also find it useful to utilize the services of non-governmental organizations and persons other than the AAMC who could contribute substantial fiscal, administrative and program expertise in the areas of Medicare, Medicaid, patient care and graduate medical education. Representatives of the Association have agreed to cooperate fully with the Social Security Administration in obtain-

ing the needed information and have stated that they will strongly urge their member medical schools and teaching hospitals to lend their full cooperation to the effort.

The study would describe both past and current practices of both private and public health insurance programs, relating to the payment for the services of supervisory and teaching physicians. The study would describe variations which exist among different teaching settings and variations which exist in the relationship between patients and physicians in these various settings.

The study would include data on the costs of providing teaching and supervisory services and it would include data on the extent of current fee-for-service and other reimbursement from public and private programs.

The study would analyze the impact of various alternative methods of financing professional services in a teaching setting. Both the fiscal and the programatic aspects of various reimbursement mechanisms would be analyzed. Special attention would be given to the impact of current Medicare reimbursement mechanisms and the mechanisms outlined under Public Law 92–603.

In view of the expanding role of public health insurance programs, the study would analyze the effect of Government reimbursement policy not only on the institutions involved, but also on the practices of private insurers, and the Federal budget.

The amendment calls for the Secretary to submit a report of his findings, including any recommendations for legislative changes he may deem appropriate, to the Congress on or before July 1, 1974, but in no case may it be submitted later than December 31, 1974.

In view of the prospect that the information derived from the study could point up problems in the Secretary's proposed regulations or the law that should be remedied, the amendment would defer the implementation of the private-patient requirement of Public Law 92–603 for 1 year, so that it would be effective for hospital accounting years that begin after June 30, 1974. Moreover, under the amendment the Secretary could, if he believes that further study is warranted, defer implementation of the 1972 provision for an additional 6 months.

The 1972 legislation also provided for more favorable cost reimbursement than had been available previously where fee-for-service reimbursement is not paid for the services of a teaching physician. Since there is no reason to defer the implementation of these more favorable cost reimbursement provisions in teaching hospitals where no fee-for-service reimbursement is paid, the amendment would retain the original effective date insofar as these hospitals are concerned.

Medicare Administration and Policy

(Sec. 181 of the bill)

When Medicare was enacted, the Social Security Administration was given responsibility for the implementation of the legislation. That organization was delegated authority in the Department for Medicare administration policy, and operations. It was understood that the Social Security Administration would rely upon the health arm of the Department as its chief consultant on policy matters within

the areas of its expertise on the health professions. However, the Social Security Administration had the responsibility for deciding when the advice of the health arm should be accepted because the primary orientation of the program was the welfare of the beneficiaries and the smooth functioning of the Medicare program and not other goals which the Department might have.

In the last two years there has been a general erosion of the Social Security Administration's responsibility for Medicare policy and administration. This responsibility has increasingly been assigned to the health segment in the Department. The effect has sometimes been less a change in direction than an absence of direction. Decisionmaking has been slowed to a point of greatly reduced effectiveness. Where decisions have been made by the health arm, these decisions have sometimes resulted in failure to follow Congressional intent.

The transfer, dilution and division of responsibility tends to reduce the capacity of the legislative committees having jurisdiction over Social Security programs to exercise that jurisdiction.

The Committee has therefore approved an amendment assigning primary policy and operating responsibility for Medicare to the Social Security Administration. In view of the Secretary's commitment to improved organization and administration of the Professional Standards Review responsibilities. the amendment does not include assignment of those responsibilities to Social Security.

The amendment is designed to enhance responsiveness to legislative intent and assure greater accountability.

Chronic Renal Disease

(Sec. 182 of the bill)

The Social Security Amendments of 1972 extended Medicare coverage to include persons in need of renal transplantation or dialysis. The provision in the Social Security Amendments of 1972 which extended Medicare protection to this group authorized the Secretary of HEW to limit Medicare reimbursement for transplant and dialysis to facilities and organizations which qualify under the requirements he is authorized to establish. Under the law (sec. 226(g) of the Social Security Act) the Secretary *must* include in his standards at least a requirement for minimum utilization rates and for a medical review board to screen appropriateness of patients for treatment. Additionally, payment for services was intended to be reasonably related to the cost of providing those services. The intent of those requirements was to control the quality and cost of the dialysis and transplant services provided.

However, the Committee has found that the preliminary regulations issued by the Secretary did not establish minimum utilization rates nor provide a requirement for the establishment of medical review boards.

To assure conformance of implementation with the legislative intent of the chronic renal disease provision, the Committee has modified the law to make these requirements mandatory.

The Committee has also added to the bill specific language intended to assure that that payment for services will be reasonably related to the cost of providing those services.

Medicare: Capital Expenditures Planning

(Sec. 183 of the bill)

Section 221 of P.L. 92–603 provides that a proposed capital expenditure of $100,000 or more by a hospital or skilled nursing facility which is specifically disapproved by an appropriate State planning agency may not be recognized for reimbursement under Medicare and Medicaid with respect to depreciation, interest on debt or return on equity. Operation of this section in the law is voluntary on the part of a State. This section is basically consistent with the existing Comprehensive Health Planning program and essentially provides that if a State agency disapproves a major capital expenditure, limitations in Medicare and Medicaid reimbursement will follow in appropriate cases. The Federal role under this section is essentially limited to handling appeals of adverse decisions and communicating with the States.

The Committee is concerned that the Department has attempted to shift substantial costs to the Medicare trust fund in what is and has been a State-operated program financed through the Comprehensive Health Planning program. The Department has established means of using Medicare trust funds to assume a major part of the costs of operating existing State planning agencies, as well as to establish 28 new Federal positions.

The Department's approach is inconsistent with the intent of the Congress: the Federal Government's role with respect to Section 221 is to be responsive to what was an ongoing program prior to enactment of P.L. 92–603. The Medicare trust funds are not to be used as a back door approach to financing ongoing programs in HEW.

The Committee bill therefore provides that, effective July 1, 1974, authorization of reimbursement from Medicare and Medicaid for expenditures incurred under Section 221 shall be limited to those costs directly associated with preparing and transmitting reports and processing and adjudicating appeals concerning approved or disapproved capital expenditures—the only role that may reasonably be related to the Medicare and Medicaid programs.

The Committee also wishes to express its general concern that expenditures made from the Medicare trust fund for services of public or private agencies or persons other than the Social Security Administration, bear a direct relationship to the work being done for Medicare.

Occupational Therapy Under Medicare

(Sec. 184 of the bill)

Under present law, occupational therapy services are covered under Part A when provided to Medicare beneficiaries who are inpatients in Medicare-approved hospitals or skilled nursing facilities. Patients receiving home health services under Part A or Part B are entitled to occupational therapy services only if they are receiving either intermittent skilled nursing care or physical or speech therapy. In addition to coverage as part of home health services, occupational therapy services are covered under Part B only when provided to outpatients

in Medicare-approved hospitals. Occupational therapy services provided to outpatients in a clinic, rehabilitation agency or other organized setting are not now covered.

The Committee is concerned that present law treats occupational therapy differently from physical or speech therapy on two grounds. First, occupational therapy services are not covered when outpatient services are provided through clinics and organized health settings, although physical and speech therapy services are covered in such settings. Second, patients cannot receive occupational therapy through a home health agency unless they also require skilled nursing services, physical therapy or speech therapy.

The Committee bill, therefore, eliminates these distinctions between occupational therapy and the other therapy groups. It expands the outpatient physical therapy and speech pathology benefit as provided through clinics, rehabilitation agencies, and other organized settings to include occupational therapy. Additionally, it amends the requirements for patients to qualify for home health services to provide that a need for occupational therapy alone can qualify the homebound patient for this benefit. However, the need for occupational therapy alone would not qualify a person for the service of a home health aide.

Basis of Medicare Payment for Services Furnished by Providers

(Sec. 185 of the bill)

Public Law 92–603 amended the reasonable cost reimbursement provisions of titles XVIII and XIX to provide that reimbursement under Medicare to participating providers of services would be limited to the lower of the provider's reasonable costs or customary charges. This provision was made applicable to provide accounting periods beginning after December 31, 1972.

Application of the prescribed limitation could create serious financial difficulties for a substantial number of hospitals, skilled nursing facilities, and home health agencies. The problems faced by many home health agencies are particularly difficult. In the past, these agencies had only nominal charge schedules since their income was derived mainly from Medicare reasonable costs (or Medicaid allowances), sometimes supplemented by public contributions, rather than from charges collected from individual patients. These providers had intended, as of January 1, 1973, to raise their charge schedules to the level of their actual costs of providing services. However, they were prevented from adjusting their charges at that time by regulations of the Cost of Living Council under the Economic Stabilization Act. Subsequent decisions and rule adjustments now permit these providers to realign charge schedules to reflect their actual costs. However, the adjustments cannot be retroactive and, therefore, Medicare reimbursement in accounting periods beginning in 1973 will be adversely affected if the "cost or charges" provision is enforced. Therefore, the Committee has added a provision to the House bill which would delay the effective date of the cost or charges provision to accounting periods beginning after December 31, 1973.

Outpatient departments of many hospitals have become the primary source of care for many poor patients and in many instances it is not

feasible to charge and collect the full cost of such services from these patients. Some hospitals have subsidized their outpatient activities through increased charges to paying patients in the hospital. Where charges are above cost, the amendment would, of course, have no ill effects on the hospital.

However, separate consideration of the "lesser of costs or charges" provision for inpatient and outpatient activities, would be required under proposed regulations published in the September 13, 1973 *Federal Register* (Volume 38, Number 177). These regulations would impose serious financial hardships on institutions serving the poor and near-poor that have set their outpatient charges low in consideration of the patients served. The adverse impact of such a separation may fall on public hospitals and their sponsoring units of local governments and on other health care institutions providing substantial services to the poor at a time when they may or may not have the necessary financial resources available to them to maintain existing levels of services to the poor.

The Committee expects, therefore, that the proposed regulations will be reviewed by the Social Security Administration in consultation with appropriate representatives of hospitals such as the American Hospital Association, with a view toward determining whether, considering the anticipated impact of these regulations on the delivery of health services to the poor and near-poor, possible equitable and feasible alternative approaches relating to treatment of inpatient and outpatient services in combination or separately may be developed and made applicable. It is possible that this review might result in several acceptable methods of dealing with the question.

Medicare: Speech Pathology

(Sec. 186 of the bill)

Under present law speech pathology services are covered under Medicare when provided by approved hospitals, skilled nursing facilities, or home health agencies. Additionally, P.L. 92–603 provided that speech pathology services are covered on an outpatient basis when rendered in an organized setting.

The provision in P.L. 92–603 unintentionally penalized the speech pathologist. By incorporating through reference certain requirements applicable to physical therapy, the provision seemed to require that for Medicare reimbursement for speech pathology services there must be not only a physician's referral but also a specific physician's plan detailing the amount, duration and scope of services to be provided by the speech pathologist.

Since speech pathology involves highly specialized knowledge and training, physicians generally do not go into this type of detail when referring a patient for these services.

The Committee bill therefore clarifies that a physician's referral need not necessarily detail the amount, duration and scope of services required. The Committee notes that there would still be a requirement for physician referral and the physician would still be required to periodically review the relationship between the services rendered and his total plan of health care for the patient. Additionally, there would

continue to be a requirement that the speech pathologist have a detailed plan of treatment which could be reviewed.

Professional Standards Review Organizations

Statewide Professional Standards Review Organizations

(Sec. 187 of the bill)

Under present law, the Secretary is required to designate Professional Standards Review Organization areas by January 1, 1974. As soon as feasible after designation of areas, the Secretary is expected to contract with a qualified organization capable of assuming progressive responsibility for review of the care and services provided under Medicare and Medicaid.

It was anticipated that in smaller or more sparsely populated States PSRO area designations would be on a statewide basis. Authority to designate statewide areas was implied by the lack of a specific statutory prohibition against a statewide designation. The Committee amendment provides the Secretary with affirmative discretionary authority to designate these and other statewide PSRO areas.

In addition, the Committee does not believe that the decision as to whether to designate a statewide PSRO should be based solely upon application of an arbitrary limit based upon the number of physicians in the State. While the Committee reiterates that wherever feasible priority in designation of areas and in designation as PSRO's should be local, the amendment also prohibits the Secretary from barring consideration of designating an area on a statewide basis *solely* on account of the number of physicians in a given State. Of course, any such statewide organization seeking designation would have to satisfy other requirements including those pertaining to capacity, acceptability to physicians, and objectivity.

In determining which organization to designate as the Professional Standards Review Organization for any area, the Secretary is expected to give great weight to otherwise qualified existing organizations with demonstrated competency in review.

Priority in Designation of Professional Standards Review Organizations

(Sec. 188 of the bill)

PSRO areas are intended to be designated primarily on the basis of medical service areas in which the number of physicians practicing is sufficient to support objective review efforts and constitute a reasonable cross-section of the various medical specialties. Priority under the law in designation as a PSRO is intended to be given local qualified organizations of physicians determined by the Secretary as capable of undertaking review activities or anticipated to be able to do so within a reasonable period of time. The Committee bill would incorporate this legislative intent into the statute. This amendment, while specifying local priorities, does not preclude designation of a statewide area or statewide PSRO (see Sec. 187 above).

Statewide Professional Standards Review Councils

(Sec. 189 of the bill)

In each State with three or more PSRO's, Section 1162 of the Social Security Act provides for the establishment of a Statewide Professional Standards Review Council consisting of one physician member from each PSRO, two physicians nominated by the State medical society, two physicians nominated by the State hospital association and four public members knowledgeable in health care. The public members may include knowledgeable State or local officials. The physician members of this body, among their other responsibilities, serve to hear appeals by patients and doctors from adverse decisions of a local PSRO.

The law, however, does not provide for a Statewide Council and, therefore, for an appeals mechanism at the State level, where there are only one or two PSRO's in a State.

The Committee bill provides that in a State with two PSRO's, a Statewide Council would be established consisting of two physician representatives from each PSRO in the State plus two physicians designated by the State medical association, plus two physicians designated by the State hospital association, as well as four persons knowledgeable in health care selected by the Secretary as public representatives. Two of the public representatives would be chosen from nominees recommended by the Governor of the State.

In a State with one PSRO, a Statewide Council would be established consisting of two physicians designated by the State hospital association, four physicians nominated and elected from and by the general PSRO membership on an annual basis, plus four public representatives knowledgeable in health care selected by the Secretary. Two of the public representatives would be selected from nominees recommended by the Governor of the State.

The Statewide Council's role is one of coordination, evaluation and the hearing of appeals. It is not intended that such councils serve directly or indirectly as a means for control of PSRO operations by a State Government. The Secretary is expected to provide appropriate assurances and monitoring to prevent any such "takeover" attempts by any public entity.

Physical Therapy and Other Therapy Services Under Medicare

(Sec. 190 of the bill)

Under section 251(c) of Public Law 92–603, reimbursement for physical therapy and other therapy services that are provided under arrangements with providers of services would not be considered reasonable if it exceeded the cost that would have been incurred if payment had been on a reasonable salary-related basis rather than a fee-for-service basis. Under this provision, the reasonable cost of therapy services performed under arrangements may be determined by taking into account the total number of hours of service rendered by the therapist, the adjusted hourly salary equivalency amount appropriate for the particular therapy in the geographic area in which

the services are rendered, and a standard travel allowance factor or, where the Secretary finds appropriate, the reasonable cost of such services may be determined by taking into account the number of visits made by the therapist under arrangements with such provider or agency, the adjusted hourly salary equivalency amount appropriate for the particular therapy in the geographic area in which the services are rendered, and a standard travel allowance factor. In prescribing criteria governing the use of these alternative approaches, the Secretary will take into account, among other things, the regularity with which the therapy services are performed.

Where therapy services are performed under arrangements on a limited part-time or intermittent basis, the reasonable cost of such services will be evaluated on a reasonable rate per unit of service, except that payment for these services, in the aggregate, during the cost reporting period, may not exceed the amount which would be payable had a therapist been employed by the provider or other organization 15 hours per week on a regular part-time basis.

The provision in question became effective on January 1, 1973. However, due to the need for careful study and consultation to avoid unequitable and unintended results, regulations needed to implement it have not yet been promulgated. As a result, the providers of services and persons working under arrangements with them have not been in a position to know whether their current payment arrangements will be subject to the potential constraints of this provision and the resulting retroactive reductions in amount of reimbursement. For this reason, the Committee believes that implementation should be delayed until the Secretary has issued final regulations and until adequate guidelines can be disseminated to intermediaries and providers of service. Therefore, the committee has added a provision to the House bill which would extend the effective date of the provision in question from January 1, 1973, to accounting period beginning after the month in which final regulations are promulgated by the Secretary.

This delay in the issuance of regulations is unfortunately all too typical. The Committee expects that the Secretary will expedite the formulation and publication of final regulations so that social security legislation may be implemented.

Federal Employees' Health Plan and Medicare

(Sec. 191 of the bill)

Section 210 of Public Law 92-603 provides that, effective January 1, 1975, Medicare would not pay a beneficiary who is also a Federal retiree or employee for services covered under his Federal employee's health insurance policy which are also covered under Medicare unless he has had an option of selecting a policy supplementing Medicare benefits. If a supplemental policy is not made available, the Federal Employee's Plan would then have to pay first on any items of care which were covered under both the Federal employee's program and Medicare.

A number of the Federal employee unions and the Civil Service Commission have indicated that they will have serious difficulty in meeting the January 1, 1975 deadline because of the complexity

of the actuarial and underwriting processes necessary. It has been suggested by the unions that the January 1, 1975, date in present law be extended one year, to January 1, 1976, so as to afford adequate lead time for necessary changes in the Federal employees health benefit program. The Committee's bill provides for the requested extension.

Coverage of Diagnostic Services by Optometrists

(Sec. 192 of the bill)

The Committee notes that under Medicare, all refractive services are specifically excluded. However, pursuant to those services reimbursable under Title XVIII for aphakic patients (patients whose natural lenses have been removed), optometrists perform, in addition to refraction, other diagnostic functions. With respect to those professional services performed on aphakic patients by optometrists, the Committee has included an amendment whereby the Secretary would conduct a study to determine which, if any, of these services should be reimbursable for purposes of Title XVIII. The study shall be undertaken utilizing the expertise of both optometrists and physicians who are not employed directly or indirectly in governmental agencies and at least half of the professionals consulted shall be actively practicing optometrists.

Other Matters of Concern to the Committee

Processing of Home Health Agency Bills

Recent changes in Medicare reimbursement procedures require home health agencies to process and submit interim billings within a specified number of days without requiring the government to process and pay claims within the same specified number of days. Furthermore, these changes make no allowance for program-caused delays that prevent home health agencies from submitting timely billings.

It has come to the Committee's attention that this change will require many home health agencies to change from a monthly processing of billing to a more frequent processing which will result in increased program costs. In addition, these changes penalize home health agencies for processing delays caused by the program over which agencies have no control. Ultimately, this results in the beneficiary being liable for payment.

In the Committee's view, if the Medicare reimbursement procedures define timeliness in working days, then this should be equally applied both to the submission of billings by home health agencies and the payment of home health service claims by Medicare or its fiscal agent. For example, if 10 days are allowed for timely processing and submission of the billing by the agency, then the timely processing and payment of properly completed claims by the intermediary or carrier should also be limited to 10 days.

The Committee believes also that under the waiver of liability provision neither the beneficiary nor the home health agency should be held liable for payment because of processing delays caused by the Medicare program when the beneficiary has acted in good faith and the home health agency has exercised due care. The Committee expects

that the Secretary take good faith into account immediately for reimbursement policies affecting home health services.

X. INDEPENDENT ESTIMATING CAPACITY FOR CONGRESS

The committee has for some time been concerned over the fact that there is not available to the Congress an independent and highly qualified resource for estimates of the cost and caseload implications of the various types of benefit legislation which the Committee must consider. Over the past several years, the Committee has dealt with a number of these programs such as medicare, medicaid, social security, and a variety of welfare and welfare-related proposals. The Committee has, for the most part, relied on the Administration to provide the estimates which have been used when decisions were made.

However, common prudence would seem to require that in dealing with proposed legislation which will intimately affect the lives of millions of citizens and involve multi-billion dollar expenditures, the Committee should have available to it a second and independent source of qualified technical advice as to the probable cost impact of the legislation. This is especially true when the Committee considers, as has frequently been the case, new programs in the area of health care and income maintenance for which there is no data based on prior experience from which an accurate picture of future costs can readily be projected.

In this connection, the Committee is pleased to learn that the Congressional Research Service, which has always been a source of valuable technical assistance to the Congress, has taken steps to greatly improve its ability to provide such assistance by developing an independent estimating capacity. The Congressional Research Service is seeking to employ highly qualified individuals who can provide reliable estimates both through actuarial analysis and by the use of other estimating techniques as may be appropriate for various types of benefit proposals. The Committee accordingly urges that the Congressional Research Service make every effort to complete the development of this resource as rapidly as possible.

XI. MISCELLANEOUS CLERICAL AND CONFORMING AMENDMENTS

(Sec. 201 of the bill)

The committee bill includes a number of clerical and conforming amendments designed to correct errors and oversights in last year's social security amendments.

Social Security Cash Benefits

Automatic increases in earnings test exempt amount.—This amendment would provide that the percentage rise in the retirement test exempt amount under the automatic increase provisions (adopted in connection with the automatic cost-of-living benefit increase provisions) will be measured from the last increase in the exempt amount

rather than from the last increase in tax base. Adoption of the amendment would assure that the automatic increases in the exempt amount increase in proportion to all increases in wage levels.

Elimination of special age 72 benefits for people entitled to SSI.—This amendment is included in H.R. 3153 as it passed the House. It would prohibit the payment of the special benefits payable to certain people over age 72 who are not insured for regular benefits. Under the present law, these special benefits are not payable to people who are receiving welfare payments. The 1972 amendments, however, failed to include a conforming change to prevent the payment of the special benefits to people receiving SSI payments.

Increases in certain cases of delayed retirement.—When an individual delays his retirement past age 65, his benefits are increased 1 percent for each year of delay up to age 72. However, this increase for delayed retirement does not apply when a person is eligible for the special minimum benefit for low-wage, long-term workers (a $170 monthly benefit if the worker has 30 years of covered employment). It is possible that an individual's primary insurance amount may be less than the special minimum benefit he is eligible for, but delaying retirement would yield a higher benefit than the special minimum. Present law would require him to take the lower benefit in this case; the Committee bill would let him take the higher benefit.

Correction of erroneous designations and cross-references.—This subsection would correct erroneous section numbers and cross references in the present law.

Supplemental Security Income

Technical correction of limitation of fiscal liability of States for optional supplementation.—Public Law 92–603 includes a savings clause under which States are assured that certain State supplemental costs under the SSI program will not exceed their costs under the old programs of aid to the aged, blind, and disabled during calendar year 1972. This amendment provides that in fiscal 1974, States will be guaranteed that these costs will not exceed an amount equal to one-half of their calendar 1972 costs. This change reflects the fact that the SSI program is in effect for only one-half a year in fiscal 1974.

This amendment also restores a word inadvertently dropped from section 401(c)(1) of Public Law 92–603.

Initial payments to presumptively disabled or blind individuals unrecoverable only if individual is ineligible because not disabled or blind.—Payments under the SSI program may be made for up to three months to otherwise eligible individuals who are presumptively disabled but not yet determined to be disabled. Such payments are not considered overpayments under any condition under existing law. This amendment would allow such payments to be considered overpayments (and hence subject to recapture) if they were incorrectly made for reasons other than the fact the individual was found not to be disabled.

Modification of transitional administrative provisions.—Public Law 92–603 included a transitional administrative provision requiring the States to agree to administer all or part of the new SSI program on behalf of the Federal Government, for a 1-year transitional period.

As a result of an error in drafting, this 1-year transitional period would begin in July 1974, 6 months after the program is effective. The amendment would add the first 6 months of 1974 to the transitional period (making an 18-month period). This amendment also adds title VI (the new social services title for the aged, blind, and disabled) to the list of titles under which Federal funding would be denied to the States if they refuse to enter into these transitional arrangements.

Transitional Federal payments.—P.L. 92–603 repeals the existing programs of aid to the aged, blind, and disabled at the same time that the new SSI program is commenced—January 1, 1974.

This provision would authorize the Secretary of HEW to continue to make payments to the States under the repealed programs for two purposes: (1) to meet the Federal matching obligation based on State expenditures prior to the repeal date, and (2) to match State expenditures after the repeal date in connection with closing out the old programs.

Limitations on eligibility determinations under resources tests of State plans.—The SSI program includes a grandfather clause under which an individual who was getting aid to the aged, blind, or disabled in both December 1972 and December 1973, will continue to be allowed as much in resources (assets) under SSI as he was allowed under the State assistance plan in effect in October 1972. This provision would remove this requirement that such an individual have been on the rolls in December 1972 and would make the grandfather clause applicable only for as long as he remains continuously resident in the State in which he was getting assistance in December 1973 and continuously eligible for SSI (except that periods of ineligibility of no more than 6 consecutive months will not be counted).

Limitation on eligibility and benefit determinations under income tests of State plans for aid to the blind.—The SSI program includes a grandfather clause under which an individual who was getting aid to the blind in December 1973 will remain eligible under SSI for any income disregards which he would have enjoyed under the State aid to the blind plan as in effect in October 1972. This provision would make the grandfather clause applicable for only so long as the individual remains continuously eligible for SSI (except for periods of ineligibility not exceeding 6 months) and only for so long as he remains continuously a resident of the State in which he was getting assistance in December 1973.

Inclusion of title VI in limitation on grants to States for social services.—This provision would amend the social services limitation enacted in Public Law 92–512 to conform it to the transfer of services for the aged, blind, and disabled from the old titles I, X, XIV, and XVI to the new title VI.

Conforming amendments to general provisions of Social Security Act.—A number of general provisions in title XI of the Social Security Act dealing with the definition of the term "State", with demonstration projects, and with the procedures for review of State assistance plans do not reflect provisions enacted last year which transfer the services programs for the aged, blind, and disabled to a new title VI of the Act and which make special provision for programs for the aged, blind, and disabled in Puerto Rico, Guam, and the

Virgin Islands. The Committee bill would conform these sections to the law enacted last year.

Errors in cross-references.—A number of erroneous cross-references in last year's law would be corrected in the House-passed bill; these corrections are incorporated in the Committee bill.

Aid to Families With Dependent Children

Federal matching for AFDC payments to Indians.—Under an Act of April 19, 1950 the Federal matching for assistance payments for the aged and the blind and for families with children is increased substantially with respect to assistance furnished to Navajo and Hopi Indians. Section 303(c) of P.L. 92–603 repealed this provision effective January 1, 1974 when the new SSI program takes effect. This amendment would restore that Act insofar as it applies to the AFDC program.

Errors in cross-references.—The bill corrects an erroneous section reference in Public Law 92–603 and an erroneous section reference in section 403(b) of the Social Security Act.

Medicare and Medicaid

Clarification of coverage of hospitalization for dental services.—The Committee bill clarifies that Medicare Part A coverage for dental services is available only in behalf of an individual for whom a physician certifies that his underlying medical condition and clinical status require hospitalization in connection with the provision of such dental services.

Continuation of State agreements for coverage of certain individuals.—The Committee bill provides for the continuation of State agreements for the purchase of Medicare Part B coverage (buy-in) in behalf of individuals eligible for the supplemental security income program.

Technical improvement of provisions governing disposition of HMO savings.—The Committee bill deletes an unnecessary and ambiguous clause in the provisions governing the disposition of savings realized by an HMO.

Technical improvement of provisions governing allowable HMO premium charges.—The Committee bill provides for the inclusion of the cost of reinsurance required by State laws in determining the costs incurred by an HMO.

Application for assistance on behalf of deceased individuals.—The Committee bill clarifies that application for retroactive Medicaid coverage may be made on behalf of a deceased individual by another person.

Expansion of intermediate care facility ownership disclosure requirements.—The Committee bill contains a provision requiring the disclosure of the names of those who own obligations secured by the assets of the intermediate care facility as well as the names of those who are owners of the facility.

Technical modification of extended medicaid eligibility for AFDC recipients.—P.L. 92–603 included a provision which would require States to provide Medicaid coverage for an additional 4-month period

to persons who lose their eligibility for AFDC cash assistance and therefore Medicaid because of increased income. The Committee bill restricts to applicability of this provision to persons actually receiving AFDC payments (as opposed to persons eligible for but not actually receiving payments). It also extends coverage to persons who become ineligible for AFDC because of increased hours of employment as well as increased income.

Limitation on payments to States for expenditures in relation to disabled individuals eligible for Medicare.—The Committee bill contains a provision under which payments will not be available under Medicaid for services which could have been provided to eligible disabled individuals under Medicare if such individuals had been enrolled in Part B of Medicare. Current law includes this requirement for the aged.

Federal payment for cost of inspecting institutions limited to expenses incurred during covered period.—The Committee bill clarifies that 100 percent Federal matching for the cost of inspecting long-term care institutions will be made for costs incurred rather than sums expended between October 1, 1972 and June 30, 1974.

Federal payments for family planning expenditures not limited to administrative costs.—The Committee bill contains a provision clarifying the fact that 90 percent Federal matching for family planning is available for the cost of providing family planning services not merely for the cost attributable to administering such programs.

Exception to limitation on payments to States for expenditures in relation to individuals eligible for Medicare.—Current law provides that Federal matching will not be available under Medicaid for amounts expended for medical assistance with respect to individuals 65 or over which would not have been so expended if the individuals involved had been enrolled in Part B of Medicare. The Committee bill has included a provision which would extend this stipulation to disabled persons eligible for Medicare. The Committee bill clarifies that this stipulation will not, however, apply to expenditures arising out of the requirement that States provide retroactive Medicaid eligibility in certain instances.

Utilization review by medical personnel associated with an institution.—The Committee bill eliminates requirement in Medicaid that the review of institutional care may not be performed by an employee of a hospital.

Authority to prescribe standards under title XIX for active treatment of mental illness.—The Committee bill deletes the reference to regulations for active treatment under Medicare (which do not exist in such form) and gives the Secretary authority under Medicaid to establish such regulations. Corrects clerical errors.

Correction of erroneous designations and cross-references.—Corrects clerical errors in title XIX.

Deletion of obsolete provisions.—Deletes obsolete provisions in title XIX.

Determination of amount of exclusion for disapproved expenditures by institutions reimbursed on fixed fee or negotiated rate basis.—P.L. 92–603 included a provision providing a limitation on Federal participation for disapproved capital expenditures. The Committee bill pro-

vides that in the case of disapproved capital expenditures by an institution reimbursed on a fixed fee or negotiated rate basis, the Secretary shall determine the amount by which the reimbursement is to be reduced because of such expenditures. There is currently no provision governing the determination of reductions for institutions reimbursed on a fixed fee or negotiated rate basis rather than a per capita basis.

Technical improvements of authority to include expenses related to capital expenditures in certain cases.—Corrects clerical errors.

Technical improvement of sanctions for provider and practitioner noncompliance.—Corrects clerical error.

XII. TAX PROVISION

Repeal of Gasoline Tax Deduction

(Sec. 301 of the bill)

The Committee recognizes that its amendment which provides a tax credit for low income workers with families (sec. 111 of the bill) would result in a revenue imbalance of the bill since the amendment involves a revenue cost of $600 million. The Committee, however, believes that the tax provisions of the bill should be in balance with respect to their effect on revenues. One of the Treasury Department's recommendations in its proposals for tax change presented to the House Committee on Ways and Means on April 30, 1973, with which this committee agrees, called for the repeal of the deduction for gasoline taxes (contained in its simplification proposals). This change will increase revenue by approximately $600 million. Since the repeal of the gasoline tax deduction would raise substantially the same amount of revenue as the cost of the tax credit provision, the Committee believes it is appropriate that this repeal be included in this bill.

Under present law (sec. 164(a)(5) and (b)(5) of the Internal Revenue Code of 1954), a taxpayer who itemizes his deductions may deduct State and local taxes paid by him during the year attributable to the purchase of gasoline, diesel fuel, and other motor fuels. In practice, the amount of this deduction may be computed either from a record of taxes actually paid by the taxpayer on his gasoline or the amount provided in the gasoline tax tables provided by the Internal Revenue Service. These tables are based on a taxpayer's calculation of the mileage he drove during the year, the size of his car and the gasoline tax rates in each State.

Although a taxpayer may deduct the actual State and local gasoline taxes paid by him during the year, most taxpayers do not keep these records. Therefore, this deduction is generally computed on the basis of the gasoline tax tables furnished by the Internal Revenue Service. Under this method, a taxpayer must keep track of the number of miles driven by him in a given year. Many taxpayers, however, do not know the number of miles they have driven in a year and therefore guess at this figure in computing their deduction. Furthermore, the calculation is complicated by adjustments required for 4-cylinder cars, State and local changes in gasoline tax rates during a year, and interstate driving where the tax rates are different.

As indicated above, the Treasury Department has recommended that the deduction for gasoline taxes be eliminated as part of its simplification proposals which are contained in its Proposals for Tax Change made on April 30, 1973.[1] The Treasury pointed out that not only is there much guessing in the gasoline tax calculation but the amount of tax savings to the average taxpayer is generally small (for example, where a taxpayer and his family drove as much as 20,000 nonbusiness miles in a year, the tax saving would be only $25 in most States if the taxpayer were in the 25-percent bracket).

In addition, State and local gasoline taxes, like the nondeductible Federal gasoline tax, are essential charges by the State for the use of highways and therefore are more like a personal expense for automobile travel (such as tolls, etc.) than a tax. Its deductibility in this sense is inconsistent with the user charge character of the tax in that it serves to shift part of the cost from the highway user to the general taxpayer. This position was taken by a prior Treasury Department in its proposals for tax reform ("Tax Reform Studies and Proposals of the 1968 Treasury Department," which were submitted to the Congress in January 1969) which also recommended the repeal of the gasoline tax deduction.

For these reasons, the Committee believes that the gasoline tax deduction should be repealed. Moreover, as indicated above, since a Committee amendment providing a tax credit for low income workers with families involves a revenue cost of substantially the same amount as the increase in revenues expected from the repeal of the gasoline tax deduction, the Committee believes it is appropriate that this repeal be included in this bill.

Therefore, the Committee amendment repeals the provision allowing the deduction for State and local gasoline taxes effective for taxable years beginning after December 31, 1973.

Revenue effect.—It is estimated that repeal of the deduction for State and local gasoline taxes would increase individual income tax liability by $600 million at 1972 levels of consumption and State tax.

XIII. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out the bill and the effect on the revenues of the bill. The social security benefit increase would cost an additional $3.5 billion in trust fund outlays in calendar year 1974 (assuming an effective date of November 1973), and the net 1974 revenue increase to the trust funds from raising the wage base in 1974 is estimated at $0.7 billion. The following table sets forth the estimated additional income and outgo of the social security trust funds compared with present law as a result of the Committee bill for fiscal years 1974 through 1978.

The first full year general fund costs or savings associated with the other provisions in title I and the revenue effect of title III of the committee bill are as follows:

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[1] However, the Treasury would have substituted a $500 miscellaneous deduction for the gasoline tax deduction, certain medical and casualty deductions and certain business and investment expenses.

ESTIMATED ADDITIONAL INCOME AND OUTGO OF THE TRUST FUNDS UNDER THE COMMITTEE BILL, FISCAL YEARS 1974–78

[In billions]

	Fiscal year—				
	1974	1975	1976	1977	1978
OASI and DI Trust Funds combined:					
Additional income.....	$0.6	$1.9	$1.9	$2.9	$2.6
Additional outgo.....	2.2	1.5	.5	.2	1.1
HI Trust Fund: [1]					
Additional income.....	—.6	—1.2	—1.4	—1.5	—2.2

[1] Additional outgo is less than $0.05 billion.

	1st full year cost (in millions)
Tax credit for low-income workers with families ($700 million in credits minus $100 million savings in public assistance)	$600
Supplemental security income:	
Increased payment levels	130
Food stamp eligibility (assuming 50 percent participation)	145
Limitation on grandfather clause for disabled individuals	—150
National adoption information exchange system	1
Child support (in subsequent years, there will be a net savings)	40
AFDC earnings disregard	—155
Pass-along of social security benefits to AFDC recipients	7
Medicaid amendments	10
Elimination of gasoline tax deduction (increased revenues)	—600

Thus the net general fund impact of the bill in the first full year will be a cost of about $20 million. No cost has been attributed to the social services provision since the Committee bill would not increase the present $2.5 billion limit on Federal funds for social services.

XIV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the tabulation of the rollcall vote to report the bill is as follows:

In favor—17 (Messrs. Long, Talmadge, Hartke, Fulbright, Ribicoff, Byrd, Jr. of Virginia, Nelson, Mondale, Gravel, Bentsen, Bennett, Curtis, Fannin, Hansen, Dole, Packwood, and Roth).

XV. CHANGES IN EXISTING LAW AND COMPLIANCE WITH LEGISLATIVE REORGANIZATION ACT

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown in the following pages (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman).

SOCIAL SECURITY ACT

* * * * * * *

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

* * * * * * *

Payment to States

Sec. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall (subject to section 1130) pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) * * *

* * * * * * *

(4) in the case of any State, [whose State plan approved under section 2 meets the requirements of subsection (c)(1)] an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which [are prescribed pursuant to subsection (c)(1) and] are provided [(in accordance with the next sentence)] to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

(ii) other services [, specified by the Secretary as] *which (as determined by the State) are* likely to prevent or reduce dependency, [so] *and which are* provided to such applicants or recipients, or

(iii) any of the services [prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as] *described in clauses (i) and (ii) which the State determines to be* appropriate for individuals who [, within such period or periods as the Secretary may prescribe,] have been or are likely to become *(as determined by the State)* applicants for or recipients of assistance under the plan, if such services are requested by [such individuals] and [are] provided to such individuals [in accordance with the next sentence], or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus]

[(C)] (*B*) one-half of the remainder of such expenditures.

[The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act, are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (i) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(5) in the case of any State whose State plan approved under section 2 does not meet the requirements of subsection (c) (1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.]

* * * * * * *

[(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a), its State plan approved under section 2 must provide that the State agency shall make available to applicants for recipients of old-age assistance under such State plan at least those services to help them attain or retain capability for self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (5) of such subsection.]

* * * * * * *

TITLE II—FEDERAL OLD-AGE SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund

Sec. 201. (a) * * *

* * * * * * *

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i)(1), and of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) ½ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, and (C) 0.95 of 1 per centum of the wages (as so

defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, [1978] *1974*, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, [1977] *1973*, and before January 1, [2011] *1978*, and so reported, [and] (G) [15] *1.2* per centum of the wages (as so defined) paid after December 31, [2010] *1977 and before January 1, 1981*, and so reported, *(H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported*, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A) ⅜ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, and (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before Januuary 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, [1978] *1974*, (F) [0.84] *0.815 of 1* per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, [1977] *1973*, and before January 1, [2011] *1978*, [and] (G) [0.895] *0.850 of 1* per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, [2010] *1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010.* which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

* * * * * * *

(g)(1)(A) There are authorized to be made available for expenditure, out of any or all of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII), such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI and title XVIII for which the Secretary of Health, Education, and Welfare is responsible *except that funds made available under this subsection for fiscal years beginning after June 30, 1974, shall not be used to pay the costs of any activity undertaken pursuant to section 1122 except as provided by such section.* During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title, title XVI, and title XVIII during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated) each of the Trust Funds and the general revenues of the United States bears its proper share of the costs incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. The Managing Trustee is authorized and directed to transfer any such amount (determined under the preceding sentence) among such Trust Funds in accordance with any certification so made.

* * * * * * *

Old-Age and Survivors Insurance Benefit Payments

Sec. 202. (a) * * *

* * * * * * *

Increase in Old-Age Insurance Benefit Amounts on Account of Delayed Retirement

(w)(1) If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 65 (or his benefit payable at such age is not reduced under subsection (q)), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a)(3)) which is payable without regard to this subsection to such individual shall be increased by—

(A) one-twelfth of 1 percent of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December

1970 and prior to the month in which such individual attained age 72, and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 214(a)), and

(ii) such individual either was not entitled to an old-age insurance benefit or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 72 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 203(a).

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph.

Reduction of Insurance Benefits

(Maximum Benefits)

Sec. 203. (a) * * *

* * * * * * *

Months to Which Earnings Are Charged

(f) For purposes of subsection (b)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each of such month, of the sum of the payments to

which such individual and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons are entitled to benefits under section 202(b), (c), or (d) on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph, but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60) or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than $200 or the exempt amounts as determined under paragraph (8).

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), and (E) thereof.

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of $200 or the exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria

for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than $200 or the exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 211, except that paragraphs (1), (4), and (5) of section 211 (c) shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D), and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(9) of the Internal Revenue Code of 1954) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65 and that the property to which the copyright or patent relates was created by his own personal efforts,

there shall be excluded from gross income any such royalties.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages

for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 202 for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this title) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 202(k)(3), and prior to the application of section 203(a)) bears to the total of the benefits to which all of them are entitled.

(8)(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the [first] month of [the calendar year] *June* following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs [(along with the publication of such benefit increase as required by section 215(i)(2)(D))] a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends [with the close of or] after the calendar year [with the first month of] *in* which such benefit increase is effective (or, in the case of an individual who dies during [such] *the* calendar year *after the calendar year in which the benefit increase is effective*, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year in which the determination under subparagraph (A) was made to (II) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year in which an increase in the [contribution and benefit base] *exempt amount* was enacted or a determination resulting in such an increase was made under [section 230(a)] *subparagraph (A)*, with such product, if not a multiple of $10 being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

Whenever the Secretary determines that the exempt amount is to be increased in any year under this paragraph, he shall notify the House

Committee on Ways and Means and the Senate Committee on Finance [no later than August 15 of such year] *within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year* of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount [or providing a general benefit increase under this title (as defined in section 215(i)(3))] is enacted.

* * * * * * *

Definition of Wages

Sec. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a)(1) * * *

* * * * * * *

(8) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to [$12,600] *$13,200* with respect to employment has been paid to an individual during any calendar year after 1973 and prior to 1975, is paid to such individual during such calendar year;

* * * * * * *

Self-Employment

Sec. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(9) of the Internal Revenue Code of 1954, from any trade or business carried on by a partnership of which he is a member;

except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

* * * * * * *

(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210(f)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954 applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) of

such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954 applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraphs (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g), or by a partnership of which an individual is a member on a regular basis as defined in subsection (g), but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or

business to which this sentence applies shall such net earnings for such year exceed $1,600.

An agreement between an owner or tenant of land and another person under which such other person is to manage and supervise the production of agricultural or horticultural commodities on such land shall not be considered to be an arrangement (described in paragraph (1)(A) of the first sentence of this subsection) which provides for material participation by the owner or tenant in production or management, if under such agreement it is the responsibility and duty of such other person, as the agent of such owner or tenant, to manage and supervise such production (including the selection of the tenants or other personnel whose services will be utilized in such production) without personal participation therein by such owner or tenant, and if, in fact, there is no personal participation by such owner or tenant in such production or management.

Self-employment Income

(b) The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) * * *

* * * * * * *

(H) For any taxable year beginning after 1973 and prior to 1975, (i) [$12,600] *$13,200*, minus (ii) the amount of the wages paid to such individual during the taxable year; and

* * * * * * *

Quarter and Quarter of Coverage

Definitions

Sec. 213. (a) For the purposes of this title—

(1) The term "quarter", and the term "calendar quarter", means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) The term "quarter of coverage" means a quarter in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with $100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal to $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971 and before 1973, or $10,800 in the case of a calendar year after 1972 and before 1974, or [$12,600] *$13,200* in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967, or $9,000 in the case a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or [$12,600] *$13,200* in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

* * * * * * *

Computation of Primary Insurance Amount

Sec. 215. For the purposes of this title—

(a) The primary insurance amount of an insured individual shall be determined as follows:

(1) * * *

* * * * * * *

(3) Such primary insurance amount shall be an amount equal to [$8.50] *the larger of $9.50 or the amount most recently established in lieu thereof under section 215(i)* multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under paragraph (1) or (2).

* * * * * * *

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1971 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$16.20	$70.40	----------	$76	$84.50	$126.80
$16.21	16.84	71.50	$77	78	85.80	128.80
16.85	17.60	73.10	79	80	87.80	131.70
17.61	18.40	74.50	81	81	89.40	134.20
18.41	19.24	75.80	82	83	91.00	136.50
19.25	20.00	77.40	84	85	92.90	139.40
20.01	20.64	78.80	86	87	94.60	141.90
20.65	21.28	80.10	88	89	96.20	144.30
21.29	21.88	81.70	90	90	98.10	147.20
21.89	22.28	83.10	91	92	99.80	149.70
22.29	22.68	84.50	93	94	101.40	152.20
22.69	23.08	85.80	95	96	103.00	154.50
23.09	23.44	87.40	97	97	104.90	157.40
23.45	23.76	88.90	98	99	106.70	160.10
23.77	24.20	90.60	100	101	108.80	163.20
24.21	24.60	91.80	102	102	110.30	165.50
24.61	25.00	93.40	103	104	112.10	168.20
25.01	25.48	95.10	105	106	114.20	171.30
25.49	25.92	96.60	107	107	116.00	173.90
25.93	26.40	98.20	108	109	117.90	176.90
26.41	26.94	99.70	110	113	119.70	179.60
26.95	27.46	101.10	114	118	121.40	182.10
27.47	28.00	102.70	119	122	123.30	185.00
28.01	28.68	104.20	123	127	125.10	187.70
28.69	29.25	105.90	128	132	127.10	190.70
29.26	29.68	107.30	133	136	128.80	193.20
29.69	30.36	108.70	137	141	130.50	195.80
30.37	30.92	110.40	142	146	132.50	198.80
30.93	31.36	111.90	147	150	134.30	201.50
31.37	32.00	113.30	151	155	136.00	204.00
32.01	32.60	115.00	156	160	138.00	207.00
32.61	33.20	116.40	161	164	139.70	209.60
32.21	33.88	118.00	165	169	141.60	212.40
33.89	34.50	119.50	170	174	143.40	215.20
34.51	35.00	121.00	175	179	145.20	217.80

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1971 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
$35.01	$35.80	$122.60	$179	$183	$147.20	$220.80
35.81	36.40	124.00	184	188	148.80	223.20
36.41	37.08	125.70	189	193	150.60	226.40
37.09	37.60	127.20	194	197	152.70	229.10
37.61	38.20	128.60	198	202	154.40	231.60
38.21	39.12	130.30	203	207	156.40	234.60
39.13	39.68	131.80	208	211	158.20	237.30
39.69	40.33	133.10	212	216	159.80	239.70
40.34	41.12	134.80	217	221	161.80	242.70
41.13	41.76	136.30	222	225	163.60	245.40
41.77	42.44	137.90	226	230	165.50	248.30
42.45	43.20	139.40	231	235	167.30	251.00
43.21	43.76	141.10	236	239	169.40	254.10
43.77	44.44	142.50	240	244	171.00	257.80
44.45	44.88	143.90	245	249	172.70	263.10
44.89	45.60	145.60	250	253	174.80	267.30
		147.10	254	258	176.60	272.60
		148.40	259	263	178.10	277.80
		150.10	264	267	180.20	282.00
		151.60	268	272	182.00	287.30
		153.20	273	277	183.90	292.60
		154.70	278	281	185.70	296.80
		156.20	282	286	187.50	302.10
		157.90	287	291	189.50	307.40
		159.20	292	295	191.10	311.60
		160.90	296	300	193.10	316.80
		162.40	301	305	194.90	322.10
		163.80	306	309	196.60	326.40
		165.50	310	314	198.60	331.70
		166.90	315	319	200.30	337.00
		168.30	320	323	202.00	341.20
		170.00	324	328	204.00	346.50
		171.50	329	333	205.80	351.80
		173.20	334	337	207.90	356.00
		174.50	338	342	209.40	361.20
		176.00	343	347	211.20	366.50
		177.70	348	351	213.30	370.70
		179.10	352	356	215.00	376.00
		180.80	357	361	218.70	385.50
		182.20	362	365	217.00	381.30
		183.60	366	370	220.40	390.70
		185.30	371	375	222.40	396.00
		186.80	376	379	224.20	400.40
		188.50	380	384	225.20	405.60
		189.80	385	389	227.80	410.90
		191.30	390	393	229.60	415.10
		193.00	394	398	231.60	420.40
		194.40	399	403	233.30	425.70
		196.10	404	407	235.40	229.90
		197.40	408	412	236.90	435.20
		198.80	413	417	238.60	440.40
		200.20	418	421	240.30	444.70
		201.60	422	426	242.20	339.90
		203.10	427	431	243.80	455.20
		204.50	432	436	245.40	460.50
		206.10	437	440	247.40	462.60
		207.40	441	445	248.90	465.30
		208.80	446	450	250.60	467.90
		210.40	451	454	252.50	470.00
		211.70	455	459	254.10	472.60
		213.10	460	464	255.80	475.20
		214.50	465	468	257.40	477.40
		216.10	469	473	259.40	480.00
		217.40	474	478	260.90	482.70

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1971 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		A least—	But not more than—		
		$218.80	$479	$482	$262.60	$484.80
		220.40	483	487	264.50	487.50
		221.70	488	492	266.10	490.10
		223.10	493	496	267.80	492.20
		224.70	497	501	269.70	494.80
		226.00	502	506	271.20	497.40
		227.40	507	510	272.90	499.60
		228.80	511	515	274.60	502.20
		230.30	516	520	276.40	504.90
		231.70	521	524	278.10	506.90
		233.10	525	529	279.80	509.60
		234.70	530	534	281.70	512.20
		236.00	535	538	283.20	514.40
		237.40	539	543	284.90	517.00
		239.00	544	548	286.80	519.60
		240.30	549	553	288.40	522.30
		241.70	554	556	290.10	523.80
		242.90	557	560	291.50	526.00
		244.20	561	563	293.10	527.60
		245.50	564	567	294.60	529.70
		246.80	568	570	296.20	531.30
		248.00	571	574	297.60	533.30
		249.30	575	577	299.20	535.00
		250.50	578	581	300.60	537.00
		251.80	582	584	302.20	538.60
		253.00	585	588	303.60	540.80
		254.40	589	591	305.30	542.30
		255.60	592	595	306.80	544.50
		256.90	596	598	308.30	546.00
		258.10	599	602	309.80	548.20
		259.40	603	605	311.30	549.80
		260.60	606	609	312.80	551.80
		262.00	610	612	314.40	553.50
		263.20	613	616	315.90	555.50
		264.50	617	620	317.40	557.70
		265.70	621	623	318.90	559.20
		267.00	624	627	320.40	561.40
		268.20	628	630	321.90	563.30
		269.50	631	634	323.40	566.10
		270.80	635	637	325.00	568.70
		272.10	638	641	326.60	571.50
		273.30	642	644	328.00	574.00
		274.60	645	648	329.60	576.80
		275.80	649	652	331.00	579.30
		276.60	653	656	332.00	581.00
		277.40	657	660	332.90	582.60
		278.40	661	665	334.10	584.70
		279.40	666	670	335.30	586.80
		280.40	671	675	336.50	588.90
		281.40	676	680	337.70	591.00
		282.40	681	685	338.90	593.10
		283.40	686	690	340.10	595.20
		284.40	691	695	341.30	597.30
		285.40	696	700	342.50	599.40
		286.40	701	705	343.70	601.50
		287.40	706	710	344.90	603.60
		288.40	711	715	346.10	605.70
		289.40	716	720	347.30	607.80
		290.40	721	725	348.50	609.90
		291.40	726	730	349.70	612.00
		292.40	731	735	350.90	614.10
		293.40	736	740	352.10	616.20
		294.40	741	745	353.40	618.30
		295.40	746	750	354.50	620.40

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1971 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
			$751	$755	$355.50	$622.20
			756	760	356.50	623.90
			761	765	357.50	625.70
			766	770	358.50	627.40
			771	775	359.50	629.20
			776	780	360.50	630.90
			781	785	361.50	632.70
			786	790	362.50	634.40
			791	795	363.50	636.20
			796	800	364.50	637.90
			801	805	365.50	639.70
			806	810	366.50	641.40
			811	815	367.50	643.20
			816	820	368.50	644.90
			821	825	369.50	646.70
			826	830	370.50	648.40
			831	835	371.50	650.20
			836	840	372.50	651.90
			841	845	373.50	653.70
			846	850	374.50	655.40
			851	855	375.50	657.20
			856	860	376.50	658.90
			861	865	377.50	660.70
			866	870	378.50	662.40
			871	875	379.50	664.20
			876	880	380.50	665.90
			881	885	381.50	667.70
			886	890	382.50	669.40
			891	895	383.50	671.20
			896	900	384.50	672.90
			901	905	385.50	674.70
			906	910	386.50	676.40
			911	915	387.50	678.20
			916	920	388.50	679.90
			921	925	389.50	681.70
			926	930	390.50	683.40
			931	935	391.50	685.20
			936	940	392.50	686.90
			941	945	393.50	688.70
			946	950	394.50	690.40
			951	955	395.50	692.20
			956	960	396.50	693.90
			961	965	397.50	695.70
			966	970	398.50	697.40
			971	975	399.50	699.20
			976	980	400.50	700.90
			981	985	401.50	702.70
			986	990	402.50	704.40
			991	995	403.50	706.20
			996	1,000	404.50	707.90

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I		II	III		IV	V
(*Primary insurance benefit under 1939 Act, as modified*)		(*Primary insurance amount effective for September 1972*)	(*Average monthly wage*)		(*Primary insurance amount*)	(*Maximum family benefits*)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		*Or his primary insurance amount (as determined under subsec. (c)) is—*	*Or his average monthly wage (as determined under subsec. (b)) is—*		*The amount referred to in the preceding paragraphs of this subsection shall be—*	*And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—*
At least—	*But not more than—*		*At least—*	*But not more than—*		
	$16.20	$84.50		$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	95.30	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.60	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	105.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.28	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.09	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.30	102	102	122.50	183.80
24.61	25.00	112.10	103	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	130.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	208.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	128.80	133	136	143.00	214.50
29.69	30.36	130.50	137	141	144.90	217.40
30.37	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.30	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	235.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	184	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	194	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.60	222	225	181.60	272.40
41.77	42.44	165.50	226	230	183.80	275.70
42.45	43.20	167.30	231	235	185.80	278.70
43.21	43.76	169.40	236	239	188.10	282.20
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	229.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$192.60	$319	$314	$220.50	$368.20
		200.20	315	319	222.40	374.10
		202.00	320	323	224.50	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		208.40	338	342	232.50	401.00
		211.20	434	347	234.50	406.90
		213.30	348	351	236.80	411.60
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	438.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.30	380	384	251.10	450.30
		227.80	385	389	252.80	456.10
		229.60	390	303	254.80	460.80
		231.60	394	398	257.10	466.70
		233.40	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		204.30	418	421	266.80	493.60
		242.20	422	426	268.80	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20
		247.40	437	440	274.70	513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	301.10	552.20
		272.90	507	510	303.00	554.60
		274.60	511	515	304.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.90
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.09
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		$05.30	589	591	338.90	602.00

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		*II*	*III*		*IV*	*V*
(Primary insurance benefit under 1939 Act, as modified)		*(Primary insurance amount effective for September 1972)*	*(Average monthly wage)*		*(Primary insurance amount)*	*(Maximum family benefits)*
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		*Or his primary insurance amount (as determined under subsec. (c)) is—*	*Or his average monthly wage (as determined under subsec. (b)) is—*		*The amount referred to in the preceding paragraphs of this subsection shall be—*	*And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—*
At least—	*But not more than—*		*At least—*	*But not more than—*		
		$306.80	$592	$595	$340.60	$604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.60	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		343.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		353.30	741	745	392.20	686.40
		354.50	746	750	393.50	688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	403.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.50	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		*Or his primary insurance amount (as determined under subsec. (c)) is—*	*Or his average monthly wage (as determined under subsec. (b)) is—*		*The amount referred to in the preceding paragraphs of this subsection shall be—*	*And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—*
At least—	*But not more than—*		*At least—*	*But not more than—*		
		$380.50	$876	$880	$422.40	$739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	424.60	743.10
		383.60	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.50	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	980	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.50	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80

* * * * * * *

Certain Wages and Self-Employment Income Not To Be Counted

(e) For the purposes of subsections (b) and (d)—

(1) in computing an individual's average monthly wage there shall not be counted the excess over $3,600 in the case of any calendar year after 1950 and before 1955, the excess over $4,200 in the case of any calendar year after 1954 and before 1959, the

excess over $4,800 in the case of any calendar year after 1958 and before 1966, the excess over $6,600 in the case of any calendar year after 1965 and before 1968, the excess over $7,800 in the case of any calendar year after 1967 and before 1972, the excess over $9,000 in the case of any calendar year after 1971 and before 1973, the excess over $10,800 in the case of any calendar year after 1972 and before 1974, the excess over [$12,600] *$13,200* in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 212); and

(2) if an individual's average monthly wage computed under subsection (b) or for the purposes of subsection (d) is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

* * * * * * *

Cost-of-Living Increases in Benefits

(i) (1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on [June 30] *March 31* in each year after [1972] *1974*, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this title;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subparagraph (A) (i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this title; except that there shall be no cost-of-living computation quarter in any calendar year [in which] *if in the year prior to such year* a law has been enacted providing a general benefit increase under this title or [in which such] *if in such prior year* a benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2) (A) (i) The Secretary shall determine each year beginning with [1974] *1975* (subject to the limitation in paragraph (1) (B) [and to subparagraph (E) of this paragraph]) whether the base quarter (as defined in paragraph (1) (A) (i)) in such year is a cost-of-living computation quarter.

(ii) If the Secretary determines that [such] *the* base quarter *in any year* is a cost-of-living computation quarter, he shall, effective with the month of [January of the next calendar year] *June of such year* [(subject to subparagraph (E))] as provided in subparagraph (B), increase the benefit amount of each individual who for such month is entitled to benefits under section 227 or 228, and the primary insurance

amount of each other individual under this title [(but not including a primary insurance amount determined under subsection (a)(3) of this section)] by an amount derived by multiplying each such amount (including each such individual's primary insurance amount or benefit amount under section 227 or 228 as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for such cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any such increased amount which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply [(subject to subparagraph (E))] in the case of monthly benefits under this title for months after [December] *May* of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after [December] *May* of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination [on or before August 15 of such calendar year] *within 30 days after the close of such quarter*, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 230 and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register [on or before November 1 of such calendar year] *within 45 days after the close of such quarter* a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (along with the increased benefit amounts which shall be deemed to be the amounts appearing in sections 227 and 228) a revision of the table of benefits contained in subsection (a) of this section (as it may have been most recently revised by another law or pursuant to this paragraph; and such revised table shall be deemed to be the table appearing in such subsection (a). Such revision shall be determined as follows:

* * * * * * *

[(E) Notwithstanding a determination by the Secretary under subparagraph (A) that a base quarter in any calendar year is a cost-of-

living computation quarter (and notwithstanding any notification or publication thereof under subparagraph (C) or (D)), no increase in benefits shall take effect pursuant thereto, and such quarter shall be deemed not to be a cost-of-living computation quarter, if during the calendar year in which such determination is made a law providing a general benefit increase under this title is enacted or becomes effective.]

* * * * * * *

Entitlement to Hospital Insurance Benefits

Sec. 226.

(a) [(1)] Every individual who—

[(A)] (*1*) has attained age 65, and

[(B)] (*2*) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary.

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in subparagraph (B), beginning with the first month after June 1966 for which he meets the conditions specified in subparagraphs (A) and (B).

(b) * * *

* * * * * * *

(d) For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 21 or section 22 of the Railroad Retirement Act of 1937. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 21 or section 22 of the Railroad Retirement Act of 1937.

(c) Notwithstanding the foregoing provisions of the section, every individual who—

(1) has not attained the age of 65;

(2) (A) is fully or currently insured (as such terms are defined in section 214 of this Act), or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term "employment" as defined in this Act, or (B) is entitled to monthly insurance benefits under title II of this Act, or an annuity under the Railroad Retirement Act of 1937, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured, or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term "employment" as defined in this Act, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of

this Act or an annuity under the Railroad Retirement Act of 1937; and

(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of title XVIII.

(f) Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the twelfth month after the month in which the person has a renal transplant or such course of dialysis is terminated.

(g) (*1*) The Secretary [is authorized to] *shall* limit reimbursement under Medicare for kidney transplant and dialysis to kidney disease treatment centers which meet such requirements as he [may] *shall* by regulation prescribe: *Provided*, That such requirements must include at least requirements for minimal utilization rate for covered procedures and for [a] *an independent* medical review board to screen the appropriateness of patients for the proposed treatment procedures.

"(*2*) *Notwithstanding the provisions of section 1842(a), the Secretary is authorized to designate the organizations to be used in making payments with respect to kidney dialysis services and to provide for payments for such services by applying such tests of reasonableness as he may find appropriate, including a test of relationship of charges to costs of providing such services. Notwithstanding the provisions of section 1842(b)(3), the Secretary is further authorized to provide for payments for such services on the basis of specific individual services and on services expected to be rendered over a period of time, and may apply such conditions to payment as he may find necessary to limit charges to patients in excess of those which he may find reasonable. With respect to services expected to be provided over a period of time, the Secretary may provide for payments on a retainer basis or such other basis as he may by regulation prescribe.*".

[(f)](h)(I) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 202(e)(1)(B)(ii), [and] 202(e)(5), [and the term "age 62" in sections] 202(f)(1)(B)(ii), and 202(f)(6) shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 202(e)(1) [shall] *and the phrase "before he attained age 60" in the matter following subparagraph (G) of section 202(f)(1) shall each* be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hopsital insurance benefits under subsection [(a)(2)] (*b*) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual

shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection [(a)(2)] *(b)* any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

[(f)] *(i)* For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

Transitional Insured Status

Sec. 227. (a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 214(a), the 6 quarters of coverage referred to in paragraph (1) of section 214(a) shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 202(a), and of his wife to benefits under section 202(b), but, in the case of such wife, only if she attains the age of 72 before 1969 and only with respect to wife's insurance benefits under section 202(b) for and after the month in which she attains such age. For each month before the month in which any such individual meets the requirements of section 214(a), the amount of his old-age insurance benefit shall, notwithstanding the provisions of section 202(a), be [$58.00] *the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)* and the amount of the wife's insurance benefit of his wife shall, notwithstanding the provisions of section 202(b), be [$29.00] *the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i).*

(b) In the case of any individual who has died, who does not meet the requirements of section 214(a), and whose widow attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 214(a) and in paragraph (1) thereof shall, for purposes of determining her entitlement to widow's insurance benefits under section 202(e), instead be—

(1) 3 quarters of coverage if such widow attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such widow attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such widow attains the age of 72 in 1968.

The amount of her widow's insurance benefit for each month shall, notwithstanding the provisions of section 202(e) (and section 202(m)), be [$58.00] *the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i).*

(c) In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 202(a) by reason of the application of subsection (a) of this section, who dies, and whose widow attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such widow to widow's insurance benefits under section 202(e).

Benefits at Age 72 for Certain Uninsured Individuals

Eligibility

Sec. 228. (a) Every individual who—

(1) has attained the age of 72,

(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

Benefit Amount

(b) (1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be [$58.00] *the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)*.

(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be [$58.00] *the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)* and the amount of the wife's benefit for such month shall be [$29.00] *the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i)*.

Reduction for Government Pension System Benefits

(c) (1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) [$29.00] *the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i).*

(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) [$58.00] *the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i); and*

(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) or (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) [$29.00] *the larger of $32.20 or the amount most recently established in lieu thereof under section 215 (i).*

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

Suspension for Months in Which Cash Payments Are Made Under Public Assistance

(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, X, XIV, or XVI or part A of title IV, or

(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month *and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month.*

Adjustment of the Contribution and Benefit Base

Sec. 230. (a) Whenever the Secretary pursuant to section 215(i) increases benefits effective [with the first month of the calendar year] *with the June* following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs [(along with the publication of such benefit increase as required by section 215(i)(2)(D))] the contribution and benefit base determined under subsection (b) which shall be effective [(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))] with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

* * * * * * *

(c) For purposes of this section, and for purposes of determining wages and self-employment income under sections 209, 211, 213, and 215 of this Act and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1954, the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the [first month] *June* of which the first increase in benefits pursuant to section 215(i) of this Act becomes effective shall be [$12,600] *$13,200* or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section.

* * * * * * *

International Agreements

Purpose of Agreement

Sec. 232. (*a*) *The President is authorized to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established under this title and the social security system of such foreign country.*

Delegation of Authority to Secretary of Health, Education, and Welfare

(*b*) (*1*) *The President is authorized to delegate any of his functions under this section to the Secretary of Health, Education, and Welfare.*

(*2*) *Pursuant to any such delegation, the Secretary of Health, Education, and Welfare shall consult with the Secretary of the Treasury and the Secretary of State prior to entering into any such agreement.*

Definitions

(*c*) *For the purposes of this section—*

(*1*) *The term "social security systems" of a foreign country means a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability.*

(*2*) *The term "period of coverage" means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.*

Crediting Periods of Coverage; Tax Exemptions; Conditions of Payment of Benefits

(*d*) (*1*) *Any agreement establishing a totalization arrangement pursuant to this section shall provide—*

(*A*) *that, in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security systems of such foreign country may, at the option of such individual or of the survivors of such individual, be combined with periods of coverage under this title and otherwise considered for the purpose of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;*

(*B*) (*i*) *that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title and the social security system of such foreign country which is a party to such agreement, shall, on or after*

the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both;

(ii) the methods and conditions for determining under which system such employment, self-employment, or other service shall result in a period of coverage;

(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which were completed under this title; and

(D) than an individual who is entitled to cash benefits under this title pursuant to such agreement shall, notwithstanding the provisions of section 202(t), receive such benefits while he legally resides in the foreign country which is a party to such agreement.

(2) To the extent that any such agreement provides that any period of coverage under this title shall not be such a period of coverage because it is a period of coverage under the laws of a foreign country which is a party to such agreement, no employment or self-employment taxes shall be imposed with respect to such period of coverage under the laws of the United States.

(3) Any such agreement may provide that the benefit paid by the United States to an individual who legally resides in the United States shall be increased to an amount which, when added to the benefit paid by such foreign country, will be equal to the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a).

(4) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

(5) Any such agreement may contain such other provisions, not inconsistent with this section, as the President deems appropriate.

Regulations

(e) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

Reports to Congress; Effective Date of Agreements

(f)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress.

(2) Such an agreement shall become effective on any date provided in the agreement following 90 calendar days of continuous session of the Congress after the date on which the agreement is transmitted in accordance with paragraph (1). The continuity of a session is broken (for purposes of this paragraph) only by an adjournment of the Congress sine die. The days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period.

* * * * * * *

TITLE IV.—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD WELFARE SERVICES

Part A—Aid to Families With Dependent Children

Appropriation

Sec. 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid and services to needy families with children.

State Plans for Aid and Services to Needy Families with Children

Sec. 402. (a) A State plan for aid and services to needy families with children must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community services aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; and

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income (*including any amounts derived from application of the tax credit established by section 42 of the Internal Revenue Code of 1954*) and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any *child care* expenses reasonably attributable to the earning of any such income;

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, [the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month] *(I) the first $60 of earned income for individuals who are employed at least 40 hours per week, or at least 35 hours per week and are earning at least $64 per week, and (II) the first $30 of earned income for other individuals, plus in each case, one-third of up to $300 of additional earnings, and one-fifth of such additional earnings in excess of $300, except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individual's earned income* (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income *and shall, before disregarding the amounts referred to in subparagraph (A) and clauses*

(*i*) and (*ii*) *of this subparagraph, disregard an amount equal to 5 per centum of any income received in the form of monthly insurance benefits paid under title II;* except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;

(9) provide safeguards which [restrict] *permit* the use or disclosure of information concerning applicants and recipients [to] *only to (A) public officials who require such information in connection with their official duties, or (B) other persons for* purposes directly connected with the administration of aid to families with dependent children;

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, *subject to paragraphs (25) and (26),* be furnished with reasonable promptness to all eligible individuals;

(11) [effective July 1, 1952,] provide for prompt notice *(including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title)* of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a parent *(including a child born out of wedlock without regard to whether the paternity of such child has been established);*

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

(13) provide a description of the services which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(14) provide for the development and application of a program for such family services as defined in section 406(d) and child welfare services, as defined in section 425, for each child and relative who receives aid to families with dependent children and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)), as may be necessary in the light of the particular home conditions and other needs of such child, relative, and individuals, in order to assist such child, relative, and individuals to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development;

(15) provide (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services,[1] but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) [provide] *provide—(A) that the State agency will provide such services as are necessary to aid the prevention, identification, and treatment of child abuse and neglect and, wherever feasible, to make it possible for the child to remain in the home; and (B)* that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or, *other agency, including* law enforcement agencies, in the State providing such data with respect to the situation it may have;

[(17) provide—

[(A) for the development and implementation of a program under which the State agency will undertake—

[(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children to establish the paternity of such child and secure support for him, and

[(ii) in the case of any child receiving such aid who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

[(B) for the establishment of a single organizational unit in the State agency or local agency administering the State plan in each political subdivision which will be responsible for the administration of the program referred to in clause (A);

[(18) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State agency in administering the program referred to in clause (17)(A), including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the State agency or local agency administering the State plan;]

(19) provide—

(A) that every individual, as a condition of eligibility for and under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; or

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434, and income derived from a special work project under the pro-

gram established by section 432(b)(3) shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) or (3) shall be taken into account:

(E) [Repealed].

(F) that if and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G)) has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) If such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b)(2) (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with

others or otherwise) for individuals who have been registered pursuant to subparagraph (A), in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under part C, (iii) will participate in the development of operational and employability plans under section 433 (b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

[(21) provide that the State agency will report to the Secretary, at such times (not less often than once each calendar quarter) and in such manner as the Secretary may prescribe—

[(A) the name, and social security account number, if known, of each parent of a dependent child or children with respect to whom aid is being provided under the State plan—

[(i) against whom an order for the support and maintenance of such child or children has been issued by a court of competent jurisdiction but who is not making payments in compliance or partial compliance with such order, or against whom a petition for such an order has been filed in a court having jurisdiction to receive such petition, and

[(ii) whom it has been unable to locate after requesting and utilizing information included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205.

[(B) the last known address of such parent and any information it has with respect to the date on which such parent could last be located at such address, and

[(C) such other information as the Secretary may specify to assist in carrying out the provisions of section 410;

[(22) provide that the State agency will, in accordance with standards prescribed by the Secretary, cooperate with the State agency administering or supervising the administration of the plan of another State under this part—

[(A) in locating a parent residing in such State (whether or not permanently) against whom a petition has been filed in a court of competent jurisdiction of such other State for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and in securing compliance or good faith partial compliance by a parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of

such parent with respect to whom aid is being provided under the plan of such other State; and]

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted; [and]

(24) *provide that* if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title[.]; *(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;*

(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section); and

(27) provide, that the States have in effect a plan approved under part D and operate a child support program in conformity with such plan.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his

findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall (subject to section 1130) pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)

not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) any of the services *which the State determines should be provided, including those* described in clauses (14) and (15) of section 402(a) which are provided to any child or relative who is receiving aid under the plan, or to any other individual (living in the same home as such relative and child) whose needs are taken into account in making the determination under clause (7) of such section,

(ii) any of the services described in [clauses (14) and (15) of section 402(a)] *subparagraph (A)(i)* which are provided to any child or relative who is applying for aid to families with dependent children or who[, within such period or periods as the Secretary may prescribe,] *as determined by the State* has been or is likely to become an applicant for or recipient of such aid.

(iii) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) one-half of the remainder of such expenditures.

[The services referred to in subparagraph (A) shall include only—

[(C) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this part shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (D), if provided by such staff, and

[(D) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under

the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (C) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D). The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) applies shall be determined in accordance with such methods and procedures as may be permitted by the Secretary.]

(4) [Repealed]

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 406(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F).

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which

the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Notwithstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under part C, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 402(a)(19)(G).

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

(e) Notwithstanding any other provision of subsection (a), with respect to expenditures during any calendar quarter beginning after December 31, 1972 (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing, directly or on a contract basis, of family planning services and supplies, the amount payable to any State under this part shall be 90 per centum of such expenditures.

(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g)) of such amount if such State—

(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of

section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under section 403(f)) of such amount if such State fails to—

(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under title XIX,

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.

(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1975, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after June 30, 1975 (but, in the case of the fiscal year beginning July 1, 1975, only considering the third and fourth quarters thereof).

Operation of State Plans

Sec. 404. (a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) No payment to which a State is otherwise entitled under this title for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

(c) No State shall be found, prior to January 1, 1976, to have failed substantially to comply with the requirements of section 402(a)(27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

(d) After December 31, 1975, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a)(27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

Use of Payments for Benefit of Child

Sec. 405. Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefor of protective payments as provided under section 406(b)(2), or in seeking appointment of a guardian or legal representative as provided in section 1111, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 404 and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

Definitions

Sec. 406. When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives as his or their own home,

and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 407), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 402(a)(7)) which do not meet the preceding requirements of this subsection but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative or other individual, but only with respect to a State whose State plan approval under section 402 includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 408(a); and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

(d) The term "family services" means services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence.

(e) (1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age 21 who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a) (1) in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary;

but only with respect to a State whose State plan approved under section 402 includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

(f) Notwithstanding the provisions of subsection (b), the term "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.

Dependent Children of Unemployed Fathers

Sec. 407. (a) The term "dependent child" shall, notwithstanding section 406(a), include a needy child who meets the requirements of section 406(a)(2), who has been deprived of parental support or care by reason of the unemployment (as determined in accordance

with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 406(a)(1) in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) The provisions of subsection (a) shall be applicable to a State if the State's plan approved under section 402—

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) when—

(A) such child's father has not been employed (as determined in accordance with the standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

(C)(i) such father has 6 or more quarters of work (as defined in subsection (d)(1)) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d)(3)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) will be certified to the Secretary of Labor as provided in section 402(a)(19) within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained; and

(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

(i) if, and for so long as, such child's father is not currently registered with the public employment offices in the State; and

(ii) with respect to any week for which such child's father receives unemployment compensation under an unemployment compensation law of a State or of the United States.

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection

(a), (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b)(1), or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subparagraph (A) of subsection (b)(2), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 402(a)(19).

(d) For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 213(a)(2)), or in which such individual participated in a community work and training program under section 409 or any other work and training program subject to the limitations in section 409, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.

Federal Payments for Foster Home Care of Dependent Children

Sec. 408. Effective for the period beginning May 1, 1961—

(a) the term "dependent child" shall, notwithstanding section 406(a), also include a child (1) who would meet the requirements of such section 406(a) or of section 407, except for his removal after April 30, 1961, from the home of a relative (specified in such section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 402, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f)(1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 402, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B) (i) would have received such aid in or for such month if application had been made therefor,

or (ii) in the case of a child who had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor;

(b) the term "aid to families with dependent children" shall, notwithstanding section 406(b), include also foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual;

(c) the number of individuals counted under clause (A) of section 403(a)(1) for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such months as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f)(2) of this section shall be considered as part of the administration of the State plan for purposes of section 403(a)(3);

but only with respect to a State whose State plan approved under section 401—

(e) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 406(a), and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency referred to in section 522(a) (relating to allotments to States for child welfare services under part 3 of title V) or of any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For the purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and the term "child-care in-

stitution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing.

Community Work and Training Programs

Sec. 409. (a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 406(a), with whom he is living) under a State plan approved under section 402 shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 401.

(b) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, the proper and efficient administration of the State plan, for purposes of section 403(a) (3) and (4) may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

[Assistance by Internal Revenue Service in Locating Parents

[Sec. 410. (a) Upon receiving a report from a State agency made pursuant to section 402(a)(21), the Secretary shall furnish to the Secretary of the Treasury or his delegate the names and social security account numbers of the parents contained in such report, and the name of the State agency which submitted such report. The Secretary of the Treasury or his delegate shall endeavor to ascertain the address of each such parent from the master files of the Internal Revenue Serv-

ice, and shall furnish any address so ascertained to the State agency which submitted such report.

[(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a). The Secretary shall transfer to the Secretary of the Treasury from time to time sufficient amounts out of the monies appropriated pursuant to this subsection to enable him to perform his functions under subsection (a).]

Part B—Child-Welfare Services

Appropriation

Sec. 420. For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: $196,000,000 for the fiscal year ending June 30, 1973, $211,000,000 for the fiscal year ending June 30, 1974, $226,000,000 for the fiscal year ending June 30, 1975, $246,000,000 for the fiscal year ending June 30, 1976, and $266,000,000 for each fiscal year thereafter.

Allotments to States

Sec. 421. The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot $70,000 to each State, and shall allot to each State an amount which bears the same ratio to the remainder of the sum so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 423) bears to the sum of the corresponding products of all the States.

Payment to States

Sec. 422. (a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

(A) provides that (i) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child-welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child-welfare services,

(B) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under part A

of this title, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, [and]

(C) provides, with respect to day care services (including the provision of such care) provided under this title—

(i) for cooperative arrangements with the State health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care,

(ii) for an advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with the provision of day care,

(iii) for such safeguards as may be necessary to assure provision of day care under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability,

(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population, and to geographical areas, which have the greatest relative need for extension of such day care, and

(v) that day care provided under the plan will be provided only in facilities (including private homes) which are licensed by the State, or approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, and

(vi) for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of the health and development of the child, and

(D) provides for the establishment and implementation of protective services for children including, but not limited to—

(i) procedures for the discovery and reporting of instances of neglect or abuse of children, including a systematic method for receiving reports of suspected or known instances of child abuse or neglect on a twenty-four hour a day basis,

(ii) use of the full resources of local communities including public and nonprofit agencies and organizations

which provide services and activities that would be beneficial to a child and his parents or guardians,

(iii) provisions of services, where feasible, to make it possible for the child to remain in the home,

(iv) cooperation with the appropriate courts and law enforcement officials in instances of child neglect and abuse, and

(v) a central collection point for all data and information on child abuse and neglect, and

(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

except that (effective July 1, 1969, or, if earlier, on the date as of which the modification of the State plan to comply with this requirement with respect to subprofessional staff is approved) such plan shall provide for the training and effective use of paid subprofessional staff with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency, an amount equal to the Federal share (as determined under section 423) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child. In developing such services for children, the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the State and local communities as may be authorized by the State.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a).

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State

for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

Allotment Percentage and Federal Share

Sec. 423. (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such States bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33⅓ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(c) The Federal share and allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

Reallotment

Sec. 424. The amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 421.

Definition

Sec. 425. For purposes of this title, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities.

Research, Training, or Demonstration Projects

Sec. 426. (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

National Adoption Information Exchange System

Sec. 427. (a) The Secretary of Health, Education, and Welfare is hereby authorized to provide information, utilizing computers and

modern data processing methods, through a national adoption information exchange system, to assist in the placement of children awaiting adoption and in the location of children, including cooperative efforts with any similar programs operated by or within foreign countries, and such other related activities as would further or facilitate adoptions.

(b) There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for succeeding fiscal years, to carry out this section.

Part C—Work Incentive Program for Recipients of Aid Under State Plan Approved Under Part A

Purpose

Sec. 430. The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in public service employment, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families.

Appropriation

Sec. 431. (a) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes.

(b) Of the amounts expended from funds appropriated pursuant to subsection (a) for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 33⅓ per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 432(b)(1)(B) and for carrying out the program of public service employment referred to in section 432(b)(3).

(c) Of the sums appropriated pursuant to subsection (a) to carry out the provisions of this part for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 50 percent shall be allotted among the States in accordance with a formula under which each State receives (from the total available for such allotment) an amount which bears the same ratio to such total as—

(1) in the case of the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, the average number of recipients

of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

(2) in the case of the fiscal year ending June 30, 1975, or in the case of any fiscal year thereafter, the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 402(a)(19)(A) bears to the average number of individuals in all States who, during such month, are so registered.

Establishment of Programs

Sec. 432. (a) The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Such programs shall include, but shall not be limited to, (1) (A) a program placing as many individuals as is possible in employment, and (B) a program utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of public service employment for individuals for whom a job in the regular economy cannot be found.

(c) In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private nonprofit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b).

(d) In providing the manpower training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available to him under this or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor shall use the funds appropriated to him under this part to provide programs required by this part through such other Act, to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal, State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to persons under this part to the extent such services and opportunities are not otherwise available on a nonreimbursable basis.

(e) The Secretary shall take appropriate steps to assure that the present level of manpower services available under the authority of other statutes to recipients of aid to families with dependent children is not reduced as a result of programs under this part.

(f) (1) The Secretary of Labor shall establish in each State, municipality, or other appropriate geographic area with a significant number of persons registered pursuant to section 402(a)(19)(A) a Labor Market Advisory Council the function of which will be to identify and advise the Secretary of the types of jobs available or likely to become available in the area served by the Council; except that if there is already located in any area an appropriate body to perform such function, the Secretary may designate such body as the Labor Market Advisory Council for such area.

(2) Any such Council shall include representatives of industry, labor, and public service employers from the area to be served by the Council.

(3) The Secretary shall not conduct, in any area, institutional training under any program established pursuant to subsection (b) of any type which is not related to jobs of the type which are or are likely to become available in such area as determined by the Secretary after taking into account information provided by the Labor Market Advisory Council for such area.

Operation of Program

Sec. 433. (a) The Secretary shall provide a program of testing and counseling for all persons certified to him by a State, pursuant to section 402(a)(19)(G), and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 432(b). Those not so selected shall be deemed suitable for the program established by clause (3) of such section 432(b) unless the Secretary finds that there is good cause for an individual not to participate in such program. The Secretary, in carrying out such program for individuals certified to him under section 402(a)(19)(G), shall accord priority to such individuals in the following order, taking into account employability potential: first, unemployed fathers; second, mothers, whether or not required to register pursuant to section 402(a)(19)(A), who volunteer for participation under a work incentive program; third, other mothers, and pregnant women, registered pursuant to section 402(a)(19)(A), who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or manpower training; and fifth, all other individuals so certified to him.

(b) (1) For each State the Secretary shall develop jointly with the administrative unit of such State administering the special program referred to in section 402(a)(19)(G) a statewide operational plan.

(2) The statewide operational plan shall prescribe how the work incentive program established by this part will be operated at the local level, and shall indicate (i) for each area within the State the number and type of positions which will be provided for training, for on-the-job training, and for public service employment, (ii) the manner in which the information provided by the Labor Market Advisory

Council (established pursuant to section 432(f)) for any such area will be utilized in the operation of such program, and (iii) the particular State agency or administrative unit thereof which will be responsible for each of the various activities and functions to be performed under such program. Any such operational plan for any State must be approved by the Secretary, the administrative unit of such State administering the special program referred to in section 402(a)(19)(G), and the regional joint committee (established pursuant to section 439) for the area in which such State is located.

(3) The Secretary shall develop an employability plan for each suitable person certified to him under section 402(a)(19)(G) which shall describe the education, training, work experience, and orientation which it is determined that such person needs to complete in order to enable him to become self-supporting.

(c) The Secretary shall make maximum use of services available from other Federal and State agencies and, to the extent not otherwise available on a nonreimbursable basis, he may reimburse such agencies for services rendered to persons under this part.

(d) To the extent practicable and where necessary, work incentive programs established by this part shall include, in addition to the regular counseling, testing, referral available through the Federal-State Employment Service System, program orientation, basic education, training in communications and employability skills, work experience, institutional training, on-the-job training, job development, and special job placement and followup services, required to assist participant in securing and retaining employment and securing possibilities for advancement.

(e)(1) In order to develop public service employment under the program established by section 432(b)(3), the Secretary shall enter into agreements with (A) public agencies, (B) private nonprofit organizations established to serve a public purpose, and (C) Indian tribes with respect to Indians on a reservation, under which individuals deemed suitable for participation in such a program will be provided work which serves a useful public purpose and which would not otherwise be performed by regular employees.

(2) Such agreements shall provide—

(A) for the payment by the Secretary to each empoyer, with respect to public service employment performed by any individual for such employer, of an amount not exceeding 100 percent of the cost of providing such employment to such individual during the first year of such employment, an amount not exceeding 75 percent of the cost of providing such employment to such individual during the second year of such employment, and an amount not exceeding 50 percent of the cost of providing such employment to such individual during the third year of such employment;

(B) the hourly wage rate and the number of hours per week individuals will be scheduled to work in public service employment for such employer;

(C) that the Secretary will have such access to the premises of the employer as he finds necessary to determine whether such employer is carrying out his obligations under the agreement and this part; and

(D) that the Secretary may terminate any agreement under this subsection at any time.

(3) Repealed.

(4) No wage rates provided under any agreement entered into under this subsection shall be lower than the applicable minimum wage for the particular work concerned.

(f) Before entering into a project under section 432(b)(3), the Secretary shall have reasonable assurances that—

(1) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(2) such project will not result in the displacement of employed workers,

(3) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant,

(4) appropriate workmen's compensation protection is provided to all participants.

(g) Where an individual certified to the Secretary of Labor pursuant to section 402(a)(19)(G) refuses without good cause to accept employment or participate in a project under a program established by this part, the Secretary of Labor shall (after providing opportunity for fair hearing) notify the State agency which certified such individual and submit such other information as he may have with respect to such refusal.

(h) With respect to individuals who are participants in public service employment under the program established by section 432(b)(3), the Secretary shall periodically (but at least once every six months) review the employment record of each such individual while on such special work project and on the basis of such record and such other information as he may acquire determine whether it would be feasible to place such individual in regular employment or on any of the projects under the programs established by section 432(b)(1) and (2).

Incentive Payment

Sec. 434. (a) The Secretary is authorized to pay to any participant under a program established by section 432(b)(2) an incentive payment of not more than $30 per month, payable in such amounts and at such times as the Secretary prescribes.

(b) The Secretary of Labor is also authorized to pay, to any member of a family participating in manpower training under this part, allowances for transportation and other costs incurred by such member, to the extent such costs are necessary to and directly related to the participation by such member in such training.

Federal Assistance

Sec. 435. (a) Federal assistance under this part shall not exceed 90 per centum of the costs of carrying out this part. Non-Federal contributions may be cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Costs of carrying out this part include costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Secretary, but may not include any reimbursement for time spent by participants in work, training, or other participation in the program.

Period of Enrollment

Sec. 436. (a) The program established by section 432(b)(2) shall be designed by the Secretary so that the average period of enrollment under all projects under such program throughout any area of the United States will not exceed one year.

(b) Services provided under this part may continue to be provided to an individual for such period as the Secretary determines (in accordance with regulations prescribed jointly by him and the Secretary of Health, Education, and Welfare) is necessary to qualify him fully for employment even though his earnings disqualify him from aid under a State plan approved under section 402.

Relocation of Participants

Sec. 437. The Secretary may assist participants to relocate their place of residence when he determines such relocation is necessary in order to enable them to become permanently employable and self-supporting. Such assistance shall be given only to participants who concur in their relocation and who will be employed at their place of relocation at wage rates which will meet at least their full need as determined by the State to which they will be relocated. Assistance under this section shall not exceed the reasonable costs of transportation for participants, their dependents, and their household belongings plus such relocation allowance as the Secretary determines to be reasonable.

Participants Not Federal Employees

Sec. 438. Participants in programs established by this part shall be deemed not to be Federal employees and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

Rules and Regulations

Sec. 439. The Secretary and the Secretary of Health, Education, and Welfare shall, not later than July 1, 1972, issue regulations to carry out the purposes of this part. Such regulations shall provide for the establishment, jointly by the Secretary and the Secretary of Health, Education, and Welfare, of (1) a national coordination committee the duty of which shall be to establish uniform reporting and similar requirements for the administration of this part, and (2) a regional coordination committee for each region which shall be responsible for review and approval of statewide operational plans developed pursuant to section 433(b).

Annual Report

Sec. 440. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the work incentive programs established by this part.

Evaluation and Research

Sec. 441. (a) The Secretary shall (jointly with the Secretary of Health, Education, and Welfare) provide for the continuing evaluation of the work incentive programs established by this part, including their effectiveness in achieving stated goals and their impact on other related programs. He also may conduct research regarding ways to increase the effectiveness of such programs. He may, for this purpose, contract for independent evaluations of and research regarding such programs or individual projects under such programs. For purposes of sections 435 and 443, the costs of carrying out this section shall not be regarded as costs of carrying out work incentive programs established by this part. Nothing in this section shall be construed as authorizing the Secretary to enter into any contract with any organization after June 1, 1970, for the dissemination by such organization of information about programs authorized to be carried on under this part.

Technical Assistance for Providers of Employment or Training

Sec. 442. The Secretary is authorized to provide technical assistance to providers of employment or training to enable them to participate in the establishment and operation of programs authorized to be established by section 432(b).

Collection of State Share

Sec. 443. If a non-Federal contribution of 10 per centum of the costs of the work incentive programs established by this part is not made in any State (as specified in section 402(a)), the Secretary of Health, Education, and Welfare may withhold any action under section 404 because of the State's failure to comply substantially with a provision required by section 402. If the Secretary of Health, Education, and Welfare does withhold such action, he shall, after reasonable notice and opportunity for hearing to the appropriate State agency or agencies, withhold any payments to be made to the State under sections 3(a), 403(a), 1003(a), 1403(a), 1603(a), and 1903(a) until the amount so withheld (including any amounts contributed by the State pursuant to the requirement in section 402(a)(19)(C)) equals 10 per centum of the costs of such work incentive programs. Such withholding shall remain in effect until such time as the Secretary has assurances from the State that such 10 per centum will be contributed as required by section 402. Amounts so withheld shall be deemed to have been paid to the State under such sections and shall be paid by the Secretary of Health, Education, and Welfare to the Secretary. Such payment shall be considered a non-Federal contribution for purposes of section 435.

Agreements With Other Agencies Providing Assistance to Families of Unemployed Parents

Sec. 444. (a) The Secretary is authorized to enter into an agreement (in accordance with the succeeding provisions of this section) with any qualified State agency (as described in subsection (b)) under which the program established by the preceding sections of this part C will (except as otherwise provided in this section) be applicable to individuals certified by such State agency in the same manner, to the same extent, and under the same conditions as such program is applicable with respect to individuals certified to the Secretary by a State agency administering or supervising the administration of a State plan approved by the Secretary of Health, Education, and Welfare under part A of this title.

(b) A qualified State agency referred to in subsection (a) is a State agency which is charged with the administration of a program—

(1) the purpose of which is to provide aid or assistance to the families of unemployed parents,

(2) which is not established pursuant to part A of title IV of the Social Security Act,

(3) which is financed entirely from funds appropriated by the Congress, and

(4) none of the financing of which is made available under any program established pursuant to title V of the Economic Opportunity Act.

(c) (1) Any agreement under this section with a qualified State agency shall provide that such agency will, with respect to all individuals receiving aid or assistance under the program of aid or assistance to families of unemployed parents administered by such agency, comply with the requirements imposed by section 402(a)(19) in the same manner and to the same extent as if (A) such qualified agency were the agency in such State administering or supervising the administration of a State plan approved under part A of this title, and (B) individuals receiving aid or assistance under the program administered by such qualified agency were recipients of aid under a State plan which is so approved.

(2) Any agreement entered into under this section shall remain in effect for such period as may be specified in the agreement by the Secretary and the qualified State agency, except that, whenever the Secretary determines, after reasonable notice and opportunity for hearing to the qualified State agency, that such agency has failed substantially to comply with its obligations under such agreement, the Secretary may suspend operation of the agreement until such time as he is satisfied that the State agency will no longer fail substantially to comply with its obligations under such agreement.

(3) Any such agreement shall further provide that the agreement will be inoperative for any calendar quarter if, for the preceding calendar quarter, the maximum amount of benefits payable under the program of aid or assistance to families of unemployed parents administered by the qualified State agency which is a party to such agreement is lower than the maximum amount of benefits payable under such program for the quarter which ended September 30, 1967.

(d) The Secretary shall, at the request of any qualified State agency referred to in subsection (a) of this section and upon receipt from it of a list of the names of individuals rereferred to the Secretary, furnish to such agency the names of each individual on such list participating in public service employment under section 433(a)(3) whom the Secretary determines should continue to participate in such employment. The Secretary shall not comply with any such request with respect to an individual on such list unless such individual has been certified to the Secretary by such agency under section 402(a)(19)(G) for a period of at least six months.

Part D—Child Support and Establishment of Paternity

Appropriation

Sec. 451. *For the purpose of enforcing the support obligations owned by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.*

Duties of the Secretary

Sec. 452. *(a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of the Assistant Secretary for Child Support, who shall report directly to the Secretary and who shall—*

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453;

(10) establish or designate regional laboratories as authorized by section 461 to provide services in analyzing and classifying blood for the purpose of establishing paternity; and

(11) not later than June 30 of each year beginning after December 31, 1974, submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c)(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

Parent Locator Service

Sec. 453. (a) The Secretary shall establish and conduct a Parent Locator Service under the direction of the Assistant Secretary for Child Support which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be

used to locate such parent for the purpose of enforcing support obligations against such parent.

(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c) (1).

(c) As used in subsection (a), the term "authorized person" means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

(d) A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

(e) (1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the infor-

mation requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for information with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

State Plan for Child Support

Sec. 454. *A State plan for child support must—*

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States, except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such

family ineligible for assistance under the State plan approved under part A;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 457;

(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children; and

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments.

Payments to States

Sec. 455. From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1974, an amount equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454 except that no amount shall be paid to any State on account of furnishing collection services (other than parent locator services) to individuals under section 454(6) during any period beginning after June 30, 1975.

Support Obligations

Sec. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1) (A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

Distribution of Proceeds

Sec. 457. (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the fiscal year beginning July 1, 1974, shall be distributed as follows:

(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;

(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A)

retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(b) The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after June 30, 1975, shall be distributed as follows:

(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(c) Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this title, the State may—

(1) continue to collect such support payments from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

Incentive Payment to Localities

Sec. 458. (a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 402 (a) (26) (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent—

(1) an amount equal to 25 per centum of any amount collected (and required to be distributed as provided in section 457 to reduce or re-

pay assistance payments) which is attributable to the support obligation owed for 12 months; and

(2) an amount equal to 10 per centum of any amount collected (and required to be distributed as provided in section 457 to reduce or repay assistance payments) which is attributable to the support obligation owed for any month after the first 12 months for which such collections are made.

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraphs (1) and (2) of subsection (a) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

Consent by the United States to Garnishment and Similar Proceedings for Enforcement of Child Support and Alimony Obligations

Sec. 459. *Notwithstanding any other provision of law, effective January 1, 1974, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual, of his legal obligations to provide child support or make alimony payments.*

Civil Actions To Enforce Child Support Obligations

Sec. 460. *The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 452(a) (8) of this Act. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides.*

Regional Laboratories To Establish Paternity Through Analysis and Classification of Blood

Sec. 461. *(a) The Secretary shall, after appropriate consultation and study of the use of blood typing as evidence in judicial proceedings to establish paternity, establish, or arrange for the establishment or designation of, in each region of the United States, a laboratory which he determines to be qualified to provide services in analyzing and classifying blood for the purpose of determining paternity, and which is prepared to provide such services to courts and public agencies in the region to be served by it.*

(b) Whenever a laboratory is established or designated for any region by the Secretary under this section, he shall take such measures as may be appropriate to notify appropriate courts and public agencies (including agencies administering any public welfare program within such region) that such laboratory has been so established or designated to provide services, in analyzing and classifying blood for the purpose of determining paternity, for courts and public agencies in such region.

(c) The facilities of any such laboratory shall be made available

without cost to courts and public agencies in the region to be served by it.

(d) There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

* * * * * * *

TITLE VI—GRANTS TO STATES FOR SERVICES FOR THE AGED, BLIND, OR DISABLED

* * * * * * *

Payments to States

Sec. 603. (a) From the sums appropriated therefor, the Secretary shall, subject to section 1130, pay to each State which has a plan approved under this title, for each quarter,

[(1) in the case of any State whose State plan approved under section 602 meets the requirements of subsection (c)(1),] an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

[(A)] (*1*) 75 per centum of so much of such expenditures as are for—

[(i)] (*A*) services which [are prescribed pursuant to subsection (c)(1) and] are provided [(in accordance with the next sentence)] to applicants for or recipients of supplemental security income benefits under title XVI to help them attain or retain capability for self-support or self-care, or

[(ii)] (*B*) other services [, specified by the Secretary as] *which (as determined by the State) are* likely to prevent or reduce dependency [, so provided] *and which are provided* to such applicants or recipients, or

[(iii)] (*C*) any of the services [prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as] *described in clause (A) or (B) which the State determines to be* appropriate for individuals who [, within such period or periods as the Secretary may prescribe,] have been or are likely to become (*as determined by the State*) applicants for or recipients of supplemental security income benefits under title XVI, if such services are requested by [such individuals] and [are] provided to such individuals [in accordance with the next sentence], or

[(iv)] (*D*) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of supplementary security income benefits under title XVI, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such benefits; plus]

[(C)] (2) one-half of the remainder of such expenditures.

* * * * * * *

[(c)(1) In order for a State to qualify for payments under paragraph (1) of subsection (a), its State plan approved under section 602 must provide that the State agency shall make available to applicants for and recipients of supplementary security income benefits under title XVI at least those services to help them attain or retain capability for self-support of self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervisin gthe administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (1) of subsection (a) until he is satisfied that there will no longer be any suc hfailure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (1) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (2) of such subsection.]

* * * * * * *

TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

* * * * * * *

Payments to States

Sec. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall (subject to section 1130) pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) * * *

* * * * * * *

(3) in the case of any State [whose State plan approved under section 1002 meets the requirements of subsection (c)(1)] an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary

of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which [are prescribed pursuant to subsection (c)(1) and] are provided [(in accordance with the next sentence)] to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

(ii) other services [, specified by the Secretary as] *which (as determined by the State)* are likely to prevent or reduce dependency, [so] *and which are* provided to such applicants or recipients, or

(iii) any of the services [prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as] *described in clauses (i) and (ii) which the State determines to be* appropriate for individuals who [, within such period or periods as the Secretary may prescribe,] have been or are likely to become *(as determined by the State)* applicants for or recipients of aid to the blind, if such services are requested by [such individuals] and [are] provided to such individuals [in accordance with the next sentence], or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus]

[(C)] *(B)* one-half of the remainder of such expenditures.

[The services referred to in subparagraph (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) prescribed by the Secretary, under conditions which shall be services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to

agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(4) in the case of any State whose State plan approved under section 1002 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.]

* * * * * * *

[(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a), its State plan approved under section 1002 must provide that the State agency shall make available to applicants for or recipients of aid to the blind at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearings to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (4) of such subsection.]

* * * * * * *

TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

Part A—General Provisions

Definitions

Sec. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles [I,] IV, V, VII, [X,] XI, [XIV, XVI,] and XIX includes the Virgin Islands and Guam. Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands.

* * * * * * *

(8) (A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, and Guam) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, and Guam) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentage as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

(C) The term "United States" means (but only for purposes of subparagraphs (A) and (B) of this paragraph) the fifty States and the District of Columbia.

(D) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal percentage for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States." Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972)

shall continue to apply, and the term "State" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

* * * * * * *

Disclosure of Information in Possession of Department

Sec. 1106. (a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, or under chapter 2 or 21 or, pursuant thereto, under subtitle F of the Internal Revenue Code of 1954, or under regulations made under authority thereof, which has been transmitted to the Secretary of Health, Education, and Welfare by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Secretary or by any officer or employee of the Department of Health, Education, and Welfare in the course of discharging the duties of the Secretary under this Act, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Secretary or from any officer or employee of the Department of Health, Education, and Welfare, shall be made except as the Secretary may by regulations prescribe *and except as provided in part D of title IV of this Act.* Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary to avoid undue interference with his functions under this Act, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which furnished the information or services. *Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV.*

[(c)(1)(A) Upon request (filed in accordance with paragraph (2) of this subsection) of any State or local agency participating in administration of the State plan approved under title I, X, XIV, XVI, or XIX, or part A of title IV, or participating in the administration of any other State or local public assistance program, for the most recent address of any individual included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205, the Secretary shall furnish such address, or the address of the most recent employer, or both, if such agency certifies that—

[(i) an order has been issued by a court of competent jurisdiction against such individual for the support and maintenance of his child or children who are under the age of 16 in destitute or necessitous circumstances,

[(ii) such child or children are applicants for or recipients of assistance available under such a plan or program.

[(iii) such agency has attempted without success to secure such information from all other sources reasonably available to it, and

[(iv) such information is requested (for its own use, or on the request and for the use of the court which issued the order) for the purpose of obtaining such support and maintenance.

[(B) If a request for the most recent address of any individual so included is filed (in accordance with paragraph (2) of this subsection) by a court having jurisdiction to issue orders or entertain petitions against individuals for the support and maintenance of their children, the Secretary shall furnish such address, or the address of the individual's most recent employer, or both, for the use of the court (and for no other purpose) in issuing or determining whether to issue such an order against such individual or in determining (in the event such individual is not within the jurisdiction of the court) the court to which a petition for support and maintenance against such individual should be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support, if the court certifies that the information is requested for such use.

[(2) A request under paragraph (1) shall be filed in such manner and form as the Secretary may prescribe (and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof).

[(3) The penalties provided in the second sentence of subsection (a) shall apply with respect to use of information provided under paragraph (1) of this subsection except for the purpose authorized by subparagraph (A) (iv) or (B) thereof.

[(4) The Secretary, in such cases and to such extent as he may prescribe in accordance with regulations, may require payment for the cost of information provided under paragraph (1); and the provisions of the second sentence of subsection (b) shall apply also with respect to payment under this paragraph.]

* * * * * * *

Demonstration Projects

Sec. 1115. (a) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist

in promoting the objectives of title I, *VI*, X, XIV, XVI, or XIX, or part A of title IV, in a State or States—

[A] (*1*) the Secretary may waive compliance with any of the requirements of section 2, 402, *602*, 1002, 1402, 1602, or 1902, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

[B] (*2*) costs of such project which would not otherwise be included as expenditures under section 3, 403, *603*, 1003, 1403, 1603, or 1903, as the case may be, and which are not included as part of the costs of projects under section 1110, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such title, or for administration of such State plan or plans, as may be appropriate.

In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such titles for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such project as is not covered by payments under such titles and is not included as part of the cost of projects for purposes of section 1110.

(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

(A) provide that not more than one such project be conducted on a Statewide basis;

(B) provide that in making arrangements for public service employment—

"(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(ii) such project will not result in the displacement of employed workers,

(iii) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

(iv) appropriate workmen's compensation protection is provided to all participants;

(C) provide that participation in any such project by any individual receiving aid to families with dependent children be voluntary.

(2) Any State which establishes and conducts demonstration projects under this subsection, may, with respect to any such project—

(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to Statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income, except that

no such waiver of 402(a) (8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a) (relating to the work incentive program);

(B) subject to paragraph (4), use to cover the costs of such projects such funds as are appropriated for payment to any such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individual participating in such projects under part A of title IV for any fiscal year in which such demonstration projects are conducted; and

(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 (86 Stat. 919) for any fiscal year in which such demonstration projects are conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

(3) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The demonstration project under which any such disapproved waiver was made by such State shall be terminated not later than the last day of the month following the month in which such waiver was disapproved.

(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to unemployment as that term is used in section 407.

(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than June 30, 1976.

Administrative and Judicial Review of Certain Administrative Determinations

Sec. 1116. (a)(1) Whenever a State plan is submitted to the Secretary by a State for approval under title I, *VI*, X, XIV, XVI, or XIX, or part A of title IV, he shall not later than 90 days after the date the plan is submitted to him, make a determination as to whether it conforms to the requirements for approval under such title. The 90-day period provided herein may be extended by written agreement of the Secretary and the affected State.

(2) Any State dissatisfied with a determination of the Secretary under paragraph (1) with respect to any plan may, within 60 days after it has been notified of such determination, file a petition with the Secretary for reconsideration of the issue of whether such plan con-

forms to the requirements for approval under such title. Within 30 days after receipt of such a petition, the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such issue. Such hearing shall be held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such State, unless the Secretary and such State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse his original determination within 60 days of the conclusion of the hearing.

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under section 4,404, *604*, 1004, 1404, 1604, or 1904 may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which such State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of title 28, United States Code.

(4) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive: but the court, for good causes shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(5) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b) For the purposes of subsection (a), any amendment of a State plan approved under title I, *VI*, X, XIV, XVI, or XIX, or part A of title IV, may, at the option of the State, be treated as the submission of a new State plan.

(c) Action pursuant to an initial determination of the Secretary described in subsection (a) shall not be stayed pending reconsideration, but in the event that the Secretary subsequently determines that his initial determination was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

(d) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under title I, *VI*, X, XIV, XVI, XIX, or part A of title IV, shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance.

* * * * * * *

Limitation on Federal Participation for Capital Expenditures

Sec. 1122. (a) * * *

* * * * * * *

(c) The Secretary shall pay any such State from the Federal Hospital Insurance Trust Fund, in advance or by way of reimbursement as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or under payments previously made), for the reasonable cost of *submitting to the Secretary reports of disapproved capital expenditures together with the reasonable cost of processing and adjudicating appeals from the recommendation made by the designated agency concerning such expenditures* [performing the functions specified in subsection (b)].

(d)(1) Except as provided in paragraph (2), if the Secretary determines that—

(A) neither the planning agency designated in the agreement described in subsection (b) nor an agency described in clause (ii) of subparagraph (B) of this paragraph had been given notice of any proposed capital expenditure (in accordance with such procedure or in such detail as may be required by such agency) at least 60 days prior to obligation for such expenditure; or

(B)(i) the planning agency so designated or an agency so described had received such timely notice of the intention to make such capital expenditure and had, within a reasonable period after receiving such notice and prior to obligation for such expenditure, notified the person proposing such expenditure that the expenditure would not be in conformity with the standards, criteria, or plans developed by such agency or any other agency described in clause (ii) for adequate health care facilities in such State or in the area for which such other agency has responsibility, and

(ii) the planning agency so designated had, prior to submitting to the Secretary the findings referred to in subsection (b)—

(I) consulted with, and taken into consideration the findings and recommendations of, the State planning agencies established pursuant to sections 314(a) and 604(a) of the Public Health Service Act (to the extent that either such agency is not the agency so designated) as well as the public or nonprofit private agency or organization responsible for the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act and covering the area in which the health care facility or health maintenance organization proposing such capital expenditure is located (where such agency is not the agency designated in the agreement), or, if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria included in regulations, similar functions, and

(II) granted to the person proposing such capital expenditure an opportunity for a fair hearing with respect to such findings;

then, for such period as he finds necessary in any case to effectuate the purpose of this section, he shall, in determining the Federal payments to be made under titles V, XVIII, and XIX with respect to services furnished in the health care facility for which such capital expenditure is made, not include any amount which is attributable to depreciа-

tion, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), or other expenses related to such capital expenditure. With respect to any organization which is reimbursed on a per capita *or a fixed fee or negotiated rate* basis, in determining the Federal payments to be made under titles V, XVIII, and XIX, the Secretary shall exclude an amount which in his judgment is a reasonable equivalent to the amount which would otherwise be excluded under this subsection if payment were to be made on other than a per capita *or a fixed fee or negotiated rate* basis.

(2) If the Secretary, after submitting the matters involved to the advisory council established or designated under subsection (i), determines that an exclusion of expenses related to any capital expenditure of any health care facility or health maintenance organization would discourage the operation or expansion of such facility or organization, or of any facility of such organization, which has demonstrated to his satisfaction proof of capability to provide comprehensive health care services (including institutional services) efficiently, effectively, and economically, or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of title V, XVIII, or XIX, he shall not [include] *exclude* such expenses pursuant to paragraph (1).

* * * * * * *

Limitation on Funds for Certain Social Services

Sec. 1130. (a) Notwithstanding the provisions of section 3(a) (4) and (5), 403(a)(3), *603(a)(1)*, 1003(a)(3) [and (4)], 1403(a) (3) and (4), or 1603(a) (4) and (5), amounts payable for any fiscal year (commencing with the fiscal year beginning July 1, 1972) under such section (as determined without regard to this section) to any State with respect to expenditures made after June 30, 1972, for services referred to in such section (other than the services provided pursuant to section 402(a)(19)(G)), shall be reduced by such amounts as may be necessary to assure that[—]

[(1)] the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under subsection (b)) [; and

[(2) of the amounts paid (under all of such sections) to such State for such fiscal year with respect to such expenditures, other than expenditures for—

[(A) services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

[(B) family planning services;

[(C) services provided to a mentally retarded individual (whether a child or an adult), but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual by reason of his condition of being mentally retarded;

[(D) services provided to an individual who is a drug addict or an alcoholic, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

[(E) services provided to a child who is under foster care in a foster family home (as defined in section 408) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such child because he is under foster care,

not more than 10 per centum thereof are paid with respect to expenditures incurred in providing services to individuals who are not recipients of aid or assistance (under State plans approved under title I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance.]

(b)(1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) the Secretary shall allot to each State an amount which bears the same ratio to $2,500,000,000 as the population of such State bears to the population of all the States.

(2) The allotment for each State shall be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time; except that the allotment for each State for the fiscal year beginning July 1, 1972, and the following fiscal year shall be promulgated at the earliest practicable date after the enactment of this section but not later than January 1, 1973.

(c) Nothing in subsection (a) or (b) of this section or in title I, IV, VI, X, XIV, or XVI shall be construed to restrict the freedom of a State (with respect to social services the cost of which is shared by the Federal Government under any such title and to which subsections (a) and (b) are applicable) to determine what services it will make available under its State plan approved under such title, the persons eligible for such services, the manner in which such services are provided, and any limitations or conditions on the receipt of such services, to the extent that such services are social services (as determined by the State) and the Federal share of their aggregate cost does not exceed the allocation to the State (for the fiscal year involved) under this section (or section 132 of the Social Security Amendments of 1973); except that nothing in this subsection shall be construed to relieve any State which has a State plan approved under part A of title IV from complying with the requirements im-

posed by section 402(a) with respect to the provision of social services to recipients of aid under such plan.

(d) For purposes of subsection (c) and for purposes of part A of title IV, VI, X, XIV, and XVI, the services referred to in subsection (c) as "social services"—

(1) shall be such services as each State determines to be appropriate for meeting any of the following specific goals:

(A) Self-support goal: To achieve and maintain the maximum feasible level of employment and economic self-sufficiency;

(B) Family-care or self-care goal: To strengthen family life and to achieve and maintain maximum personal independence, self-determination, and security in the home, including, for children, the achievement of maximum potential for eventual independent living, and to prevent or remedy neglect, abuse, or exploitation of children;

(C) Community-based care goal: To secure and maintain community-based care which approximates a home environment, when living at home is not feasible and institutional care is inappropriate; or

(D) Institutional care goal: To secure appropriate institutional care when other forms of care are not feasible; and

(2) include the following services:

(A) child care services for children, to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such service is needed (i) in order to enable a member of such child's family to accept or continue in employment, or to participate in education or training to prepare such member for employment, or (ii) because of the death, continued absence from the home, incapacity or inability of the child's mother, or the inability of any member of such child's family to provide adequate care and supervision for such child;

(B) child care services for children with special needs, including services provided when appropriate, as determined by the State, for eligible children who are mentally retarded or otherwise have special social or developmental needs;

(C) services for children in foster care, including services provided to a child who is under or awaiting foster care and including preventive diagnostic and curative health services not furnished under the State's title XIX plan, provided to or on behalf of a child who is or has within ninety days been receiving maintenance, care, and supervision in the form of foster care in a foster family home or child care institution (as those forms are defined in the last paragraph of section 408) or who is awaiting placement in such a home or institution, or provided to a child in or by a nonresidential diagnostic or treatment facility. Such services shall be available whether they are rendered directly by the providers of foster care or by the nonresidential facility, or are otherwise provided or obtained for the child by the State when such services are needed in order for the child to return to or remain in his own home, the home of another relative, or an adoptive

home, or to continue in foster care as appropriate. Such services also include services related to the relinquishment of children for adoption and the placement of children in adoptive homes, and activities to develop and recruit, study, approve, and subsequently evaluate out of home care resources for foster care;

(D) protective services for children, including multidisciplinary (medical, legal, social, and other) services for the following purposes: identification, investigation, and response to incidents or evidence of neglect, abuse, or exploitation of a child; helping parents and others to recognize the causes thereof and strengthening the ability of families to provide acceptable care; or, if that is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, furnishing relevant data, and providing followup services;

(E) family planning services (including social, educational, and medical services for any female of child bearing age and any other appropriate individual needing such service): Provided, That individuals must be assured choice of method, and acceptance of any such services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for any other service;

(F) protective services for adults, including identifying and helping to correct hazardous living conditions or situations of potential or actual neglect or exploitation of an individual who is unable to protect or care for himself;

(G) services for adults in foster care not available under titles XVI, XVIII, and XIX, services for adults in twenty-four-hour foster homes or group care in other than medical institutions, including assessment of need for such care, finding of foster homes and institutional resources, making arrangements for placement, supervision, and periodic review while in placement, counseling services for the adult individuals and their families, and services to assist adults in leaving foster care to attain independent living;

(H) homemaker services for individuals in their own homes, including helping individuals to overcome specific barriers to maintaining, strengthening, and safeguarding their functioning in the home, through the services of a trained and supervised homemaker;

(I) chore services including the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialists;

(J) home delivery or congregate meals and the preparation and delivery of hot meals to an individual in his home or in a central dining facility, to assist the individual to remain in his home, and to assure sound nutrition;

(K) day care services for adults, including meal preparation and serving, companionship, educational and recreational

activities, and rehabilitation activity when provided for less than a twenty-four-hour period in a group or family setting;

(L) health-related services, including helping individuals to identify health (including mental health) needs and assisting individuals to secure diagnostic, preventive, remedial, ameliorative, and other needed health services and helping to expedite return to community living from institutional care when discharge is medically recommended;

(M) home management and other functional educational services, including formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, child rearing, and health maintenance;

(N) Housing improvement services, including helping individuals to obtain or retain adequate housing and minor repairs necessary for personal protection;

(O) a full range of legal services, at the option of the State, for persons desiring assistance with legal problems, including services to establish paternity and child support and services related to adoption;

(P) transportation services necessary to travel to and from community facilities or resources for receipt of services;

(Q) educational and training services for adult family members and services to assist children to obtain education and training to their fullest capacities, where there are needs not met by the work incentive program; and vocational rehabilitation services as defined in the Vocational Rehabilitation Act when provided pursuant to an agreement with the State agency administering the vocational rehabilitation program;

(R) employment services to enable individuals to secure paid employment or training leading to such employment, including vocational, educational, social, and psychological diagnostic assessments to determine potential for job training or employment and other services that will assist in the individual's plan for achieving full or partial self-support, where there are needs not met by the work incentive program;

(S) information, referral, followup and determination of eligibility and the need for services, without regard to individual eligibility criteria;

(T) special services for the mentally retarded, or special adaptations of generic services, directed toward alleviating a developmental handicap or toward the social, personal, or economic habilitation of an individual of subaverage intellectual functioning associated with impairment of adaptive behavior as defined and determined by the State agency, with such services including but not limited to personal care, day care, training, sheltered employment, recreation, counseling of the retarded individual and his family, protective and other social and sociolegal services, information and referral, follow along services, transportation necessary to deliver such services, diagnostic and evaluation services, and similar

special services for other individuals requiring such services because of developmental disability;

(U) special services for the blind to alleviate the handicapping effects of blindness through training in mobility, personal care, home management, and communication skills; special aids and appliances; and special counseling for caretakers of blind children and adults;

(V) services for alcoholism and drug addiction for an individual who is becoming dependent on or is addicted to alcohol or other drugs as determined by the standards set by the State agency designated by the State under the Comprehensive Alcohol Abuse and Treatment Act of 1970 and the Drug Abuse and Treatment Act of 1972, if such services are needed as part of a program for prevention or treatment of addiction or the conditions arising from misuse of alcohol or other drugs, including but not limited to social and rehabilitative services for resident patients receiving services in a supportive environment (such as a halfway house, hostel, or foster home) and including medical services (such as psychiatric services) incidental to the provision of a social service;

(W) special services for the emotionally disturbed as defined by the State;

(X) special services for the physically handicapped as defined by the State; and

(Y) any other services which the State finds appropriate for meeting the goals of self-support, family care or self-care, community based care, or institutional care.

(e)(1) Effective July 1, 1974, Federal financial assistance which is subject to the limitation imposed by subsections (a) and (b) shall be available for a new purchase of services from a public agency (other than the single State agency) only for services beyond those represented by the expenditures for the previous fiscal year of the provider agency (or its predecessor) for the type of service and type of persons covered by the agreement.

(2) A purchase of services in any fiscal year shall not be considered a new purchase of services to the extent that an equivalent purchase of services from the same provider agency (or its predecessor) was made in any of the three preceding fiscal years and was included in the expnditures for which Federal financial participation was provided under titles I, VI, X, XIV, or XVI or Part A of title IV.

[(c)](f) For purposes of this section, the term "State" means any one of the fifty States or the District of Columbia.

Annual Reports by Secretary on Social Services

Sec. 1131. *(a) Not later than June 30, 1975, and June 30 of each year thereafter, the Secretary shall submit to Congress a report on social services programs under sections 3, 403, 603, 1003, 1403, and 1603. Such report shall include information on a State-by-State basis as to the amounts of funds expended for each type of service (classified in such categories as the Secretary may determine to be appropriate), and such other data and information as may be appropriate.*

(b) The Secretary shall require the States to make such reports concerning their use of Federal social services funds which shall be the basis of the report required by subsection (a).

* * * * * * *

Use of Donated Funds in Provision of Social Services

Sec. 1132. For purposes of the services to which the provisions of section 1130 are applicable, donated private funds (including in-kind contributions, as defined in OMB Circular A–102, as in effect on October 1, 1973) for services shall be considered as State funds in claiming Federal reimbursement where such funds are transferred to the State or local agency and under its administrative control and are donated on an unrestricted basis (except that funds donated to support a particular kind of activity in a named community shall be acceptable).

* * * * * * *

Designation of Professional Standards Review Organizations

Sec. 1152. (a) * * *

* * * * * * *

(c)(1) The Secretary shall not enter into any agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A) prior to January 1, 1976, nor after such date, unless, in such area, there is no organization referred to in subsection (b)(1)(A) which meets the conditions specified in subsection (b)(2).

(2) Whenever the Secretary shall have entered into an agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b)(1)(A), he shall not renew such agreements with such organization if he determines that—

(A) there is in such area an organization referred to in subsection (b)(1)(A) which (i) has not been previously designated as a Professional Standards Review Organization, and (ii) is willing to enter into an agreement under this part under which such organization would be designated as the Professional Standards Review Organization for such area;

(B) such organization meets the conditions specified in subsection (b)(2); and

(C) the designation of such organization as the Professional Standards Review Organization for such area is anticipated to result in substantial improvement in the performance in such area of the duties and functions required of such organizations under this part.

(3) The Secretary shall give priority to designation of local areas and priority in designation as the Professional Standards Review Organization for any area to an otherwise qualified or-

ganization proposed to be established and operated at a local level.

(d) * * *

* * * * * * *

(g) In carrying out the provisions of this section, the Secretary may designate, as an appropriate area with respect to which a Professional Standards Review Organization may be designated, an area encompassing a whole State; and the Secretary shall not refuse to designate any qualified organization as the Professional Standards Review Organization with respect to such area solely because of the number of physicians in such State.

* * * * * * *

Statewide Professional Standards Review Councils; Advisory Groups to Such Councils

Sec. 1162. (a) In any State in which there are located [three] *one* or more Professional Standards Review Organizations, the Secretary shall establish a Statewide Professional Standards Review Council.

(b) *(1)* The membership of any such Council for any State *in which there are located three or more Professional Standards Review Organizations* shall be appointed by the Secretary and shall consist of—

[(1)] *(A)* one representative from and designated by each Professional Standards Review Organization in the State;

[(2)] *(B)* four physicians, two or whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

[(3)] *(C)* four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

(2) The membership of any such Council for any State in which there are located two Professional Standards Review Organizations shall be appointed by the Secretary and shall consist of—

(A) two representatives from and designated by each Professional Standards Review Organization in the State;

(B) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

(C) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

(3) The membership of any such Council for any State in which there is located one Professional Standards Review Organization shall be appointed by the Secretary and shall consist of—

(A) four physicians who shall be nominated by and elected from among the general membership of the Professional Standards Review Organization annually;

(B) two physicians who may be designated by the State hospital association of such State to serve as members on such Council; and

(C) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

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TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

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Payments to States

Sec. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay (subject to section 1130) to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) * * *

* * * * * * *

(3) in the case of any State [whose State plan approved under section 1402 meets the requirements of subsection (c)(1)], an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are [prescribed pursuant to subsection (c)(1) and are] provided [(in accordance with the next sentence)] to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability of self-support or self-care, or

(ii) other services [, specified by the Secretary as] *which (as determined by the State) are* likely to prevent or reduce dependency, [so] *and which are* provided to such applicants or recipients, or

(iii) any of the services [prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as] *described in clauses (i) and (ii) which the State determines to be* appropriate for individuals who [, within such pe-

riod or periods as the Secretary may prescribe,] have been or are likely to become (*as determined by the State*) applicants for or recipients of aid to the permanently and totally disabled, if such services are requested by [such individuals] and [are] provided to such individuals [in accordance with the next sentence], or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus]

[(C)] (*B*) one-half of the remainder of such expenditures.

[The services referred to in subparagraphs (A) and (B) shall except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) Under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the

portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(4) in the case of any State whose State plan approved under section 1402 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.]

* * * * * * *

[(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a), its State plan approved under section 1402 must provide that the State agency shall make available to applicants for or recipients of aid to the permanently and totally disabled at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (4) of such subsection.]

* * * * * * *

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

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Payments to States

Sec. 1603. (a) From the sums appropriated therefor, the Secretary shall pay (subject to section 1130) to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) * * *

* * * * * * *

(4) in the case of any State [whose State plan approved under section 1602 meets the requirements of subsection (c)(1),] an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which [are prescribed pursuant to subsection (c)(1) and] are provided [(in accordance with the next sentence)] to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services [, specified by the Secretary as] *which (as determined by the State) are* likely to prevent or reduce dependency [, so] *and which are* provided to such applicants or recipients, or

(iii) any of the services [prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as] *described in clauses (i) and (ii) which the State determines to be* appropriate for individuals who [, within such period or periods as the Secretary may prescribe,] have been or are likely to become *(as determined by the State)* applicants for or recipients of aid or assistance under the plan if such services are requested by [such individuals] and [are] provided to such individuals [in accordance with the next sentence], or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance;]

[(C)] *(B)* one-half of the remainder of such expenditures. [The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State

agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(5) in the case of any State whose State plan approved under section 1602 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.]

* * * * * * *

[(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a), its State plan approved under section 1602 must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (5) of such subsection.]

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part A—Determination of Benefits

Eligibility for and Amount of Benefits

Definition of Eligible Individual

Sec. 1611. (a)(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1612(b), is at a rate of not more than [$1,680] *$1,752* for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1613(a), are not more than (i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living, $1,500,

shall be an eligible individual for purposes of this title.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1612(b), is at a rate of not more than [$2,520] *$2,628* for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1613(a), are not more than $2,250,

shall be an eligible individual for purposes of this title.

Amounts of Benefits

(b)(1) The benefit under this title for an individual who does not have an eligible spouse shall be payable at the rate of [$1,680] *$1,752* for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual.

(2) The benefit under this title for an individual who has an eligible spouse shall be payable at the rate of [$2,520] *$2,628* for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual and spouse.

* * * * * * *

Certain Individuals Deemed To Meet Resources Test

[(g) In the case of any individual or any individual and his spouse (as the case may be) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, the resources of such individual or such individual and his spouse shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources, as specified in the State plan (above referred to, and as in effect in October 1972) under which he or they were entitled to aid or assistance for the month of December 1972.]

(g) In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of that individual and his spouse (as the case may be) do not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

Certain Individuals Deemed To Meet Income Test

[(h) In determining eligibility for, and the amout of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who is blind (as that term is defined under a State plan approved under title X or XVI as in effect in October 1972) and who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title X or XVI, there shall be disregarded an amount equal to the greater of the amounts determined as follows—

[(1) the maximum amount of any earned or unearned income which could have been disregarded under the State plan (above referred to, and as in effect in October 1972), or

[(2) the amount which would be required to be disregarded under section 1612 without application of this subsection.]

(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) and eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection."

Income

Meaning of Income

Sec. 1612. (a) * * *

* * * * * * *

Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2) (*A*) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned of unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) monthly (or other periodic) payments received by an individual (or his eligible spouse) under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in excess of 24 years in such State by such individual;

(3) (A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a

calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-supported approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance described in section 1616(a) which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child one-third of any payment for his support received from an absent parent; and

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency.

* * * * * * *

Meaning of Terms

Aged, Blind, or Disabled Individual

Sec. 1614. (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or disabled (as determined under paragraph (3)), and

(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity). [An individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973, so long as he is continuously disabled as so defined.]

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(4)(A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(B) The term "period of trial work" with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

* * * * * * *

Optional State Supplementation

Sec. 1616. (a) Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this title or who would but for their

income be eligible to receive benefits under this title, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1612(b)(6) in determining the income of such individuals for purposes of this title and the Secretary and such State may enter into an agreement which satisfies subsection (b) under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Any agreement between the Secretary and a State entered into under subsection (a) shall provide—

(1) that such payments will be made (subject to subsection (c)) to all individuals residing in such State (or subdivision) who are receiving benefits under this title, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c)) to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.

(c)(1) Any State (or political subdivision) making supplementary payments described in subsection (a) may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(d) Any State which has entered into an agreement with the Secretary under this section which provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this title (or who would but for their income be eligible to receive such benefits), shall, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

(e) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approved under title XIX of this Act if such care is (or could be) provided under a State plan approved under title XIX of this Act by an institution certified under such title XIX.

Part B—Procedural and General Provisions

Payments and Procedures

Payment of Benefits

Sec. 1631. (a) (1) * * *

(4) The Secretary—

(A) may make to any individual initially applying for benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability for a period not exceeding 3 months prior to the determination of such individual's disability, if such individual is presumptively disabled and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) *solely because such individual is determined not to be disabled.*

* * * * * * *

Procedures; Prohibitions of Assignments; Representation of Claimants

(d) (1) The provisions of section 207 and subsections (a), (d), (e), [and] (*f*), and (*n*) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

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TITLE XVIII.—HOSPITAL INSURANCE FOR THE AGED AND DISABLED

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Requirement of Requests and Certifications

Sec. 1814. (a) * * *

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(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or

(ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

(B) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necessary or (ii) render the condition non-communicable;

(C) in the case of post-hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided dilrectly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

(D) in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1861(m)(7)) and needed skilled nursing care on an intermittent basis, or physical, *occupational*, or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician; or

(E) in the case of inpatient hospital services in connection with [a dental procedure, the individual suffers from impairments of such severity as to require hospitalization;] *the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;*

* * * * * * *

(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section

1861(k)(4), including any finding made in the course of a sample or other review of admissions to the institution) pursuant to the system of utilization to review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or skilled nursing facility, as the case may be, received notice of such finding.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), [or D] (*D*), *or* (*E*) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

* * * * * * *

Procedure for Payment of Claims of Providers of Services

Sec. 1835. (a) Except as provided in subsections (b), (c), and (e), payment for services described in section 1832(a)(2) furnished an individual may be made only to providers of services which are eligible therefor under section 1866(a), and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that, where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year; and

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

(A) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1861(m)(7)) and needed skilled nursing care on an intermittent basis, or physical, *occupational*, or speech therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(B) in the case of medical and other health services execpt services described in subparagraphs (B), (C), and (D) of section 1861(s)(2), such services are or were medically required; and

(C) in the case of outpatient physical therapy services, (i) such services are or were required because the individual needed physical therapy services, (ii) a plan for furnishing such services has been established, and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(D) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician [.]; *and*

(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.

For purpose of this section, the term "provider of services" shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B), but only with respect to the furnishing of outpatient physical therapy services as therein defined. To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where at a later date, a physician makes a certification of the kind provided in subparagraph (A) or (B) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

* * * * * * *

State Agreements for Coverage of Eligible Individuals Who Are Receiving Money Payments Under Public Assistance Programs (or are Eligible for Medical Assistance)

Sec. 1843. (a) The Secretary shall, at the request of a State made before January 1, 1970, enter into an agreement with such State pursuant to which all eligible individuals in either of the coverage groups described in subsection (b) (as specified in the agreement) will be enrolled under the program established by this part.

(b) An agreement entered into with any State pursuant to subsection (a) may be applicable to either of the following coverage groups:

(1) individuals receiving money payments under the plan of such State approved under title I or title XVI; or

(2) individuals receiving money payments under all of the plans of such State approved under titles I, X, XIV, and XVI, and part A of title IV.

Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937. *Effective January 1, 1974, and subject to section 1902(e), the Secretary shall, at the request of any State not eligible to participate in the State plan program established under title XVI, continue in effect the agreement entered into under this section with such State subject to such modifications as the Secretary may by regulations provide to take account of the termination of any plans of such State approved under titles I, X, XIV, and XVI and the establishment of the supplemental security income program under title XVI.*

Part C—Miscellaneous Provisions

Definition of Services, Institutions, etc.

Sec. 1861. For purposes of this title—

* * * * * * *

Outpatient Physical Therapy Services

(p) The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provided, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

(1) who is under the care of a physician (as defined in section 1861(r)(1)), and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

(3) any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital; and

(4) any such service—

(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify.

(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides,

(iii) maintains clinical records on all patients,

(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such lincensing; and

(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary. The term "outpatient physical therapy services" also includes physical therapy services furnished an individual by a physical therapist (in his office or in such individual's home) who meets licensing and other standards prescribed by the Secretary in regulations, otherwise than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, if the furnishing of such services meets such conditions relating to health and safety as the Secretary may find necessary. In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility. The term "outpatient physical therapy services" also includes speech pathology services *and occupational therapy services* furnished by a provider of services, a clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection *except that the requirements of paragraph (2) insofar as they require a physician to establish a plan prescribing the type, amount, and duration of speech pathology services to be furnished shall not apply if such a plan is established by the speech pathologist providing such services.*

* * * * * * *

Exclusions From Coverage

Sec. 1862. (a) Notwithstanding any other provisions of this title, no payment may be made under part A or part B for any expenses incurred for items or services—

(1) which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member;

(2) for which the individual furnished such items or services has no legal obligation to pay, and which no other person (by

reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

(3) which are paid for directly or indirectly by a governmental entity (other than under this Act and other than under a health benefits or insurance plan established for employees of such an entity), except in such cases as the Secretary may specify;

(4) which are not provided within the United States (except for inpatient hospital services furnished outside the United States under the conditions described in section 1814(f) and, subject to such conditions, limitations, and requirements as are provided under or pursuant to this title, physicians' services and ambulance services furnished an individual in conjunction with such inpatient hospital services but only for the period during which such inpatient hospital services were furnished);

(5) which are required as a result of war, or of an act of war, occurring after the effective date of such individual's current coverage under such part;

(6) which constitute personal comfort items;

(7) where such expenses are for routine physical checkups, eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, hearing aids or examinations therefor, or immunizations;

(8) where such expenses are for orthopedic shoes or other supportive devices for the feet;

(9) where such expenses are for custodial care;

(10) where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member;

(11) where such expenses constitute charges imposed by immediate relatives of such individual or members of his household;

(12) where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth except that payment may be made under part A in the case of inpatient hospital services in connection with [a dental procedure where the individual suffers from impairments of such severity as to require hospitalization; or] *the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or*

(13) where such expenses are for—

(A) the treatment of flat foot conditions and the prescription of supporting devices therefor.

(B) the treatment of subluxations of the foot, or

(C) routine foot care (including the cutting or removal of corns, warts, or calluses, the trimming of nails, and other routine hygiene care).

(b) Payment under this title may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State. Any pay-

ment under this title with respect to any item or service shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under such a law or plan.

(c) No payment may be made under this title with respect to any item or service furnished to or on behalf of any individual on or after January 1, [1975,] *1976*, if such item or service is covered under a health benefits plan in which such individual is enrolled under chapter 89 of title 5, United States Code, unless prior to the date on which such item or service is so furnished the Secretary shall have determined and certified that such plan or the Federal employees health benefits program under chapter 89 of such title 5 has been modified so as to assure that—

(1) there is available to each Federal employee or annuitant enrolled in such plan, upon becoming entitled to benefits under part A or B, or both parts A and B of this title, in addition to the health benefits plans available before he becomes so entitled, one or more health benefits plans which offer protection supplementing the protection he has under this title, and

(2) the Government or such plan will make available to such Federal employee or annuitant a contribution in an amount at least equal to the contribution which the Government makes toward the health insurance of any employee or annuitant enrolled for high option coverage under the Government-wide plans established under chapter 89 of such title 5, with such contribution being in the form of (A) a contribution toward the supplementary protection referred to in paragraph (1), (B) a payment to or on behalf of such employee or annuitant to offset the cost to him of his coverage under this title, or (C) a combination of such contribution and such payment.

* * * * * * *

Administration

Sec. 1874. (a) Except as otherwise provided in this title and in the Railroad Retirement Act of 1937, the insurance programs established by this title [shall be administered by the Secretary.] *and section 226 shall be administered by the Secretary; and the Secretary, in administering such programs, shall assign primary policy, operating, and general administrative responsibility to the commissioner of Social Security.* The Secretary may perform any of his functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title.

(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this title, the Secretary may administer oaths and affirmations.

* * * * * * *

Payments to Health Maintenance Organizations

Sec. 1876. (a)(1) In lieu of amounts which would otherwise be payable pursuant to sections 1814(b) and 1833(a), the Secretary is authorized to determine, by actuarial methods, as provided in this section, but only with respect to a health maintenance organization with which he has entered into a contract under subsection (i), a per capita rate of payment—

(A) for services provided under parts A and B for individuals enrolled with such organization pursuant to subsection (e) who are entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B, and

(B) for services provided under part B for individuals enrolled with such organization pursuant to subsection (e) who are not entitled to benefits under part A but who are enrolled for benefits under part B.

(2) An interim per capita rate of payment for each health maintenance organization shall be determined annually by the Secretary on the basis of each organization's annual operating budget and enrollment forecast which shall be submitted (in such form and in such detail as the Secretary may prescribe) at least 90 days before the beginning of each contract year. Each interim rate shall be equal to the estimated per capita cost (based upon types and components of expenses otherwise reimbursable under this title) of providing services defined in paragraph (3)(A)(iii). In the event that the data requested to be furnished by a health maintenance organization are not furnished timely, such reduction in interim payments may be made by the Secretary as is appropriate, until such time as a reasonable estimate of per capita costs can be made. Each month, the Secretary shall pay each such organization its interim per capita rate, in advance, for each individual enrolled with it pursuant to subsection (e). Each such organization shall submit interim estimated cost reports and enrollment data on a quarterly basis in such form and manner satisfactory to the Secretary, and the Secretary shall adjust each interim per capita rate to the extent necessary to maintain interim payments at the level of current costs. Interim payments made under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

(3)(A) With respect to any health maintenance organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i)(2)(A), payments made to such organization shall be subject to the following adjustments at the end of each contract year:

(i) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is less than the adjusted average per capita incurred cost (as defined herein) of providing such services, the resulting difference (hereinafter referred to as "savings") shall be apportioned following the close of a contract year for such year between such organization and the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (hereinafter collectively referred to as the "Medicare Trust Funds") as follows:

(I) savings up to 20 percent of the adqusted average per capita cost shall be apportioned equally between such organization and the Medicare Trust Funds;

(II) savings in excess of 20 percent of the adjusted average per capita cost shall be apportioned entirely to such Trust Funds;

(ii) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is greater than the adjusted average per capita incurred cost of providing such services, the resulting difference (hereinafter referred to as "losses"), shall be absorbed by such organization, and shall be carried forward and offset from savings realized in later years[, with the apportionment of savings being proportional to the losses absorbed and not yet offset];

(iii) determination of any amounts payable at the close of the contract year to such organization or to the Trust Funds shall be made as follows:

(I) within 90 days after close of a contract year, interim determination of the amount of estimated savings and apportionment thereof shall be made, actuarially, on the basis of interim reports of costs incurred by an organization, and adjusted average per capita costs incurred (as defined herein), and other evidence acceptable to the Secretary and one-half of any amounts deemed payable to such organization or the Trust Funds shall be paid by such organization or the Secretary as appropriate;

(II) final settlement and payment by the Secretary or organization, as appropriate, of any additional amounts due on basis of such final settlement will be made where adequate data for actuarial computation are available, in timely fashion following submission by such organization of reports specified in subparagraph (C) of this paragraph; and

(III) where such final settlement is reached more than 90 days following submission of reports specified in subparagraph (C) of this paragraph, any amount payable by the Secretary or organization shall be increased by an interest amount, accruing from the 91st day following submission of such report, equal to the average rate of interest payable on Federal obligations if issued on such 91st day for purchase by the Trust Funds.

(iv) The term "adjusted average per capita cost" means the average per capita amount that the Secretary determines (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in the geographic area served by a health maintenance organization or in a similar area, with appropriate adjustment to assure actuarial equivalence, including adjustments relating to age distribution, sex, race, institutional status, disability status, and any other relevant factors) would be payable in any contract year for services covered under this title and types of expenses otherwise reimbursable under this title (including administrative costs in-

curred by organizations described in sections 1816 and 1842) if such services were to be furnished by other than such health maintenance organization.

(B) With respect to any health maintenance organization which has entered into a reasonable cost reimbursement contract with the Secretary pursuant to subsection (i)(2)(B), payments made to such organization shall be subject to suitable retroactive corrective adjustments at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in paragraph (1).

(C) Any contract with a health maintenance organization under this title shall provide that the Secretary shall require, at such time following the expiration of each accounting period of a health maintenance organization (and in such form and in such detail) as he may prescribe:

(i) that such health maintenance organization report to him in an independently certified financial statement its per capita incurred cost based on the types and components of expenses otherwise reimbursable under this title for providing services described in paragraph (1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

(ii) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

(iii) that in any case in which a health maintenance organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the health maintenance organization by related organizations and owners) issued by the Secretary in accordance with section 1861(v) of the Social Security Act; and

(iv) that in any case in which compensation is paid by a health maintenance organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

(4) The payments to health maintenance organizations under this subparagraph with respect to individuals described in subsection (a)(1)(A) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of such payment to such an organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

(A) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1))

who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1839(c)(1), and

(B) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1839(c)(4).

The remainder of such payment shall be paid by the former trust fund. For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

(b) The term "health maintenance organization" means a public or private organization which—

(1) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on the basis of a predetermined periodic rate without regard to the frequency or extent of services furnished to any particular enrollee;

(2) provides, either directly or through arrangements with others, to the extent applicable in subsection (c) (through institutions, entities, and persons meeting the applicable requirements of section 1861), all of the services and benefits covered under parts A and B of this title which are available to individuals residing in the geographic area served by the health maintenance organization;

(3) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organizations, or (B) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

(4) provides either directly or under arrangements with others, the services of a sufficient number of primary care and specialty care physicians to meet the health needs of its members; for purposes of this section the term "specialty care physician" means a physician who is either board certified or eligible for board certification, except that the Secretary may by regulation prescribe conditions under which physicians who have a record of demonstrated proficiency but who are not eligible for board certification may, on the basis of training and experience, be recognized as specialty care physicians;

(5) has effective arrangements to assure that its members have access to qualified practitioners in those specialties which are generally available in the geographic area served by the health maintenance organization;

(6) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically;

(7) except as provided in subsection (h), has at least half of its enrolled members consisting of individuals under age 65;

(8) assures that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations; and

(9) has an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of paragraph (7)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with the regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.

(c) The benefits provided under this section to enrollees of an organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i) (2) (A) shall consist of—

(1) in the case of an individual who is entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B—

(A) entitlement to have payment made on his behalf for all services described in section 1812 and section 1832 which are furnished to him by the health maintenance organization with which he is enrolled pursuant to subsection (e) of this section; and

(B) entitlement to have payment made by such health maintenance organization to him or on his behalf for (i) such emergency services (as defined in regulations), (ii) such urgently needed services (as defined in regulations) furnished to him during a period of temporary absence (as defined in regulations) from the geographic area served by the health maintenance organization with which he is enrolled, and (iii) such other services as may be determined, in accordance with subsection (f), to be services which the individual was entitled to have furnished by the health maintenance organization, as may be furnished to him by a physician, supplier, or provider of services, other than the health maintenance organization with which he is enrolled; and

(2) in the case of an individual who is not entitled to hospital insurance benefits under part A but who is enrolled for medical insurance benefits under part B, entitlement to have payment made for services described in paragraph (1), but only to the extent that such services are also described in section 1832.

(d) Subject to the provisions of subsection (e), every individual described in subsection (c) shall be eligible to enroll with any health maintenance organization (as defined in subsection (b)) which serves the geographic area in which such individual resides.

(e) An individual may enroll with a health maintenance organization under this section, and may terminate such enrollment, as may be prescribed by regulations.

(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive without additional cost to him any health service to which he believes he is entitled shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b) and in any such hearing the Secretary shall make such health maintenance organization a party thereto. If the amount in controversy is $1,000 or more, such individual or health maintenance organization shall be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(g)(1) If the health maintenance organization provides its enrollees under this section only the services described in subsection (c), its premium rate or other charges for such enrollees shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B, if they were not enrolled under this section.

(2) If the health maintenance organization provides to its enrollees under this section services in addition to those described in subsection (c), election of coverage for such additional services shall be optional for such enrollees and such organization shall furnish such enrollees with information on the portion of its premium rate or other charges applicable to such additional services. The portion *of its premium rate or other charges* applicable to the services described in subsection (c) [may] *shall* not exceed [(i)] the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B if they were not enrolled under this section [less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance].

(h) The provisions of paragraph (7) of subsection (b) shall not apply with respect to any health maintenance organization for such period not to exceed three years from the date such organization enters into an agreement with the Secretary pursuant to subsection (i), as the Secretary may permit, but only so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plans for each year that it is making continuous efforts and progress toward achieving compliance with the provisions of such paragraph (7) within such three-year period.

(i)(1) Subject to the limitations contained in subparagraphs (A) and (B) of paragraph (2), the Secretary is authorized to enter into a contract with any health maintenance organization which undertakes to provide, on an interim per capita prepayment basis, the services described in section 1832 (and section 1812, in the case of individuals who are entitled to hospital insurance benefits under part A) to individuals enrolled with such organization pursuant to subsection (e).

(2)(A) If the health maintenance organization (i) has a current enrollment of not less than 25,000 members on a prepaid capitation basis and has been the primary source of health care of at least 8,000 persons in each of the two years immediately preceding the contract year, or (ii) serves a nonurban geographic area, has a current enrollment of not less than 5,000 members on a prepaid capitation basis and has been the primary source of health care for at least 1,500 per-

sons in each of the three years immediately preceding the contract year, the Secretary may enter into a risk-sharing contract with such organization pursuant to which any savings, as determined pursuant to subsection (a)(3)(A), are shared between such organization and the Medicare Trust Funds in the matter prescribed in such subsection. For purposes of this subparagraph, a health maintenance organization shall be considered to serve a nonurban geographic area if it is located in a nonmetropolitan county (that is, a county with fewer than 50,000 inhabitants), or if it has at least one such county in its normal service area, or if it is located outside of a metropolitan area and its facilities are within reasonable travel distance (as defined by the Secretary) of fewer than 50,000 individuals. No health maintenance organization which has entered into risk-sharing contract with the Secretary under this subparagraph and has voluntarily terminated such contract may again enter into such a contract.

(B) If the health maintenance organization does not meet the requirements of subparagraph (A), or if the Secretary is not satisfied that the health maintenance organization has the capacity to bear the risk of potential losses as determined under clause (ii) of subsection (a)(3)(A), or if the health maintenance organization meeting the requirements of subparagraph (A) so elects, or if an organization does not fully meet the requirements of section 1876(b) but has demonstrated to the satisfaction of the Secretary that it is making reasonable efforts to meet, and is developing the capability to fully meet, such requirements, and that it fully meets such basic requirements as the Secretary shall prescribe in regulations, the Secretary may, if he is otherwise satisfied that the health maintenance organization or other organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in subsection (a)(3)(B).

(3) Such contract may, at the option of such organization, provide that the Secretary (A) will reimburse hospitals and skilled nursing facilities for the reasonable cost (as determined under section 1861(v)) of services furnished to individuals enrolled with such organization pursuant to subsection (e), and (B) will deduct the amount of such reimbursement from payments which would otherwise be made to such organization. If a health maintenance organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

(4) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health mantenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed susbtantially to carry out the contract, (B) is carrying out the contract in a manner

inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

(5) The effective date of any contract executed pursuant to this subsection shall be specified in such contract pursuant to the regulations.

(6) Each contract under this section—

(A) shall provide that the Secretary, or any person or organization designated by him—

(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under such contract; and

(ii) shall have the right to audit and inspect any books and records of such health maintenance organization which pertain to services performed and determinations of amounts payable under such contract;

(B) shall provide that no reinsurance costs (other than those with respect to out-of-area services), including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause (iii) of subsection (a)(3)(A), shall be allowed for purposes of determining payment, authorized under this section: and

(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

(j) The function vested in the Secretary by subsection (i) may be performed without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

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TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

Appropriation

Sec. 1901. For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or [permanently and totally] disabled individuals, whose income and resources are insufficient to meet the cost of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for medical assistance.

State Plans for Medical Assistance

Sec. 1902. (a) A State plan for medical assistance must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State equal to not less than 40 per centum of the non-Federal share of the expenditures under the plan with respect to which payments under section 1903 are authorized by this title; and, effective July 1, 1969, provide for financial participation by the State equal to all of such non-Federal share or provide for distribution of funds from Federal or State sources, for carrying out the State plan, on an equalization or other basis which will assure that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan;

(3) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness;

(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(5) either provide for the establishment or designation of a single State agency to administer the plan[.]*;* or provide for the establishment or designation of a single State agency to supervise the administration of the plan except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under title I or [XVI (insofar as it relates to the aged);] XVI (*insofar as it relates to the aged*) *if the State is eligible to participate in the State plan program established under title XVI, or by the agency or agencies administering the supplemental security income program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the State plan programs established under title XVI;*

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide—

(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purposes specified in the first sentence of section 1864 (a)), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services, and

(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions:

[(10) providing for making medical assistance available to all individuals receiving aid or assistance under State plans approved under titles I, X, XIV, and XVI, and part A of title IV; and

[(A) provide that the medical assistance made available to individuals receiving aid or assistance under any such State plan—

[(i) shall not be less in amount, duration, or scope than the medical assistance made available to individuals receiving aid or assistance under any other such State plan, and

[(ii) shall not be less in amount, duration, or scope than the medical or remedial care and services made available to individuals not receiving aid or assistance under any such plan; and

[(B) if medical or remedial care and services are included for any group of individuals who are not receiving aid or assistance under any such State plan and who do not meet the income and resources requirements of the one of such State plans which is appropriate, as determined in accordance with standards prescribed by the Secretary, provide—

[(i) for making medical or remedial care and services available to all individuals who would, if needy, be eligible for aid or assistance under any such State plan and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical or remedial care and services, and

[(ii) that the medical or remedial care and services made available to all individuals not receiving aid or assistance under any such State plan shall be equal in amount, duration, and scope;]

(10) provide—

(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI;

(B) that the medical assistance made available to any individual described in clause (A)—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in clause (A); and

(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, as determined in accordance with standards prescribed by the Secretary—

(i) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under title XVI, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

(ii) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph [(4) or (14)] *(4), (14), or (16)* of section 1905(a) to individuals meeting the age [requirement] *requirements* prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, [and] (II) the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of [the] deductibles, cost sharing, or similar charges under part B of title XVIII for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals [;], *and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A);*

(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provison of medical assistance under the plan; and (B) effective July 1, 1969, provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments for part or all of the cost of plans or projects under title V, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such plan or project under title V and which are included in the State plan approved under this section and (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to him under section 1903;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) provide—

(A)(i) for the inclusion of some institutional and some non-institutional care and services, and

(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing home services, and

(B) in the case of individuals receiving aid or assistance under [the State's plan approved under title I, X, XIV, or XVI, or part A of title IV] *any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI*, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1905(a), and

(C) in the case of individuals not included under subparagraph (B) for the inclusion of at least—

(i) the care and services listed in clauses (1) through (5) of section 1905(a) or

(ii)(I) the care and services listed in any 7 of the clauses number (1) through [14] (*16*) of such section and (II) in the event the care and services provided under the State plan include hospital or skilled nursing facility services, physicians' services to an individual in a hospital or skilled nursing facility during any period he is receiving hospital services from such hospital or skilled nursing facility services from such home, and

(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1122, which shall be developed by the State and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan, except that the reason-

able cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII: and

(E) effective July 1, 1976, for payment of the skilled nursing facility and intermediate care facility services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary;

(14) effective January 1, 1973, provide that—

(A) in case of individuals receiving aid or assistance under [a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirements of the one of such State plans which is appropriate] "*any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)*—

(i) no enrollment fee, premium, or similar charge, and no deduction, cost sharing, or similar charge with respect to the care and services listed in clauses (1) through (5) and (7) of section 1905(a), will be imposed under the plan, and

(ii) any deduction, cost sharing, or similar charge imposed under the plan with respect to other care and services will be nominal in amount (as determined in accordance with standards approved by the Secretary and included in the plan), and

(B) with respect to individuals (*other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)*) who are not receiving aid or assistance under any such State plan *and with respect to whom supplemental security income benefits are not being paid under title XVI* and who do not meet the income and resources requirements of [the one of such State plans which is appropriate or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to section 1902(a)(10)(B) approved under title XIX] *the appropriate State plan, or the supple-*

mental security income program under title XVI, as the case may be—

(i) there shall be imposed an enrollment fee, premium, or similar charge which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income, and

(ii) any deductible, cost-sharing, or similar charge imposed under the plan will be nominal;

(15) in the case of eligible individuals 65 years of age or older who are covered by either or both of the insurance programs established by title XVIII, provide where, under the plan, all of any deductible, cost sharing, or similar charge imposed with respect to such individual under the insurance program established by such title is not met, the portion thereof which is met shall be determined on a basis reasonably related (as determined in accordance with standards approved by the Secretary and included in the plan) to such individual's income or his income and resources;

(16) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of medical assistance under the plan to individuals who are residents of the State but are absent therefrom;

(17) include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under [the State's plan approved under title I, X, XIV, or XVI or part A of title IV], *any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI* based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this title, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient, and (in the case of any applicant or recipient who would, [if he met the requirements as to need] *except for income and resources*, be eligible for aid or assistance in the form of money payments under [a State plan approved under title I, X, XIV, or XVI, or part A of title IV] *any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI* as would not be disregarded (or set aside for future needs) in determining his eligibility for [and amount of such aid or assistance under such plan] *such aid, assistance, or benefits*, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21

or [is blind or permanently and totally disabled] (*with respect to States eligible to participate in the State program established under title XVI*), *is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614* (*with respect to States which are not eligible to participate in such program*); and provide for flexibility in the application of such standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums or otherwise) incurred for medical care or for any other type of remedial care recognized under State law;

(18) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, in the case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21 or [is blind or permanently and totally disabled] (*with respect to States eligible to participate in the State program established under title XVI*), *is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614* (*with respect to States which are not eligible to participate in such program*) of any medical assistance correctly paid on behalf of such individual under the plan;

(19) provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients;

(20) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institutions, and that there will be a periodical determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in 3(a)(4)(A) (i) and (ii), *section 603(a)(1)(A) (i) and (ii)* or section 1603(a)(4)(A) (i) and (ii) which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients;

(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing [homes,] *facilities*, and other alternatives to care in public institutions for mental diseases;

(22) include descriptions of (A) the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have, (B) the standards, for private or public institutions in which recipients of medical assistance under the plan may receive care or services, that will be utilized by the State authority or authorities responsible for establishing and maintaining such standards, (C) the cooperative arrangements with State health agencies and State vocational rehabilitation agencies entered into with a view to maximum utilization of and coordination of the provision of medical assistance with the services administered or supervised by such agencies, and (D) other standards and methods that the State will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality; and

(23) provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and a State plan shall not be deemed to be out of compliance with the requirements of this paragraph or paragraph (1) or (10) solely by reason of the fact that the State (or any political subdivision thereof) has entered into a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization;

(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing [homes,] *facilities*, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this Act, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this Act, and (C) to provide information needed to determine payments due under this Act on account of care and services furnished to individuals;

(25) provide (A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability, (B) that where the State or local agency knows that a third party has such a legal liability such agency will treat such legal liability as a resource of the individual on whose behalf the care and services are made available for purposes of paragraph (17)(B), and (C) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

(26) effective July 1, 1969, provide (A) for a regular program of medical review (including medical evaluation) of each patient's need for skilled nursing facility care or (in the case of individuals who are eligible therefor under the State plan) need for care in a mental hospital, a written plan of care, and, where applicable, a plan of rehabilitation prior to admission to a skilled nursing facility; (B) for periodic inspections to be made in all skilled nursing facilities and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of (i) the care being provided in such nursing [homes] *facilities* (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing [homes] *facilities* (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in such [homes] *facilities* (or institutions, (iii) the necessity and desirability of the continued placement of such patients in such nursing [homes] *facilities* (or institutions), and (iv) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan;

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals

receiving assistance under the State plan, and (B) to furnish the State agency with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency may from time to time request;

(28) provide that any skilled nursing facility receiving payments under such plan must satisfy all of the requirements contained in section 1861(j), except that the exclusion contained therein with respect to institutions which are primarily for the care and treatment of mental diseases and tuberculosis shall not apply for purposes of this title;

(29) include a State program which meets the requirements set forth in section 1908, for the licensing of administrators of nursing homes;

(30) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care;

(31) provide (A) for a regular program of independent professional review (including medical evaluation of each patient's need for intermediate care) and a written plan of service prior to admission or authorization of benefits in an intermediate care facility as determined under regulations of the Secretary; (B) for periodic on-site inspections to be made in all such intermediate care facilities (if the State plan includes care in such institutions) within the State by one or more independent professional review teams (composed of physicians or registered nurses and other appropriate health and social service personnel) of (i) the care being provided in such intermediate care facilities to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular intermediate care facilities to meet the current health needs and promote the maximum physical well-being of patients receiving care in such facilities, (iii) the necessity and desirability of the continued placement of such patients in such facilites, and (iv) the feasibility of meeting their health care needs through alternative institutional or non-institutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections, together with any recommendations to the State agency administering or supervising the administration of the State plan;

(32) provide that no payment under the plan for any care or service provided to an individual by a physician, dentist, or other individual practitioner shall be made to anyone other than such individual or such physician, dentist, or practitioner, except that payment may be made (A) to the employer of such physician, dentist, or practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (B) (where the care

or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service:

(33) provide—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the [last sentence] *penultimate sentence* of this subsection; and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan;

(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (*or application was made on his behalf in the case of a deceased individual*) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time of such care and services were furnished;

(35) effective January 1, 1973, provide that any intermediate care facility receiving payments under such plan must supply to the licensing agency of the State full and complete information as to the identity (A) of each person having (directly or indirectly) an ownership interest of 10 per centum or more in such intermediate care facility *or who is the owner (in whole or in part) of any mortgage, deed of trust, note or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility*, (B) in case an intermediate care facility is organized as a corporation, of each officer and director of the corporation, and (C) in case an intermediate care facility is organized as a partnership, of each partner; and promptly report any changes which would affect the current accuracy of the information so required to be supplied; *and*

[(37)] *(36)* provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency

described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this title, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this title, the State agency which administered or supervised the administration of the plan of such State approved under title X (or title XVI, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under title I (or title XVI, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under title X (or title XVI, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title (except for purposes of paragraph (10)).

For purposes of paragraphs (9)(A), (29), (31), and (33), and of section 1903(i)(4), the term "skilled nursing facility" and "nursing home" do not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition for eligibility for medical assistance under the plan—

(1) an age requirement of more than 65 years; or

(2) effective July 1, 1967, any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 406(a)(2), be a dependent child under part A of subchapter IV of this chapter; or

(3) any residence requirement which excludes any individual who resides in the State; or

(4) any citizenship requirement which excludes any citizen of the United States.

(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if he determines that the approval and operation of the plan will result in a reduction in aid or assistance in the form of money payments (other than so much, if any, of the aid or assistance in such form as was, immediately prior to the effective date of the State plan under this title, attributable to medical needs) provided for eligible individuals under a plan of such State approved under title I, X, XIV, or XVI, or part A of title IV.

(d) (Repealed).

[(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was eligible for assistance pursuant to part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment, shall, while a member of such family is employed, remain eligible for such assistance for 4 calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of the income and resources limitations contained in such plan.]

(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan.

* * * * * * *

(f) Notwithstanding any other provision of this title, except as provided in subsection (e), no State *not eligible to participate in the State plan program established under title XVI* shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of title XVI) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this title and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1903(f) (after deducting [such individual's payment under title XVI] *any supplemental security income payment and State supplementary payment made with respect to such individual*, and incurred expenses for medical care [as defined in section 213 of the Internal Revenue Code of 1954] *as recognized under State law*) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972.

In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection if that individual is, or is

eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection.".

Payment to States

Sec. 1903. (a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section [and section 1117]) shall pay to each State which has a plan approved under this title, for each quarter beginning with the quarter commencing January 1, 1966,

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b), subject to subsections (g) (*e*) and (h) of this section) of the total amount expended during such quarter as medical assistance under the State plan (including expenditures for premiums under part B of title XVIII, for [individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV] *individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)*, and, except in the case of individuals sixty-five years of age or older *and disabled individuals entitled to hospital insurance benefits under title XVIII* who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof); plus

(2) an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel of the State agency or any other public agency; plus

(3) an amount equal to—

(A)(i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing

and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of title XVIII, including the State's share of the cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this title, and

(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States under this clause for either such fiscal year shall not exceed $150,000), and

(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan of the specific services so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; plus

(4) an amount equal to 100 per centum of the sums expended *with respect to costs incurred* during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) which are attributable to compensation or training of personnel (of the State agency or any other public agency) responsible for inspecting public or private institutions (or portions thereof) providing long-term care to recipients of medical assistance to determine whether such institutions comply with health or safety standards applicable to such institutions under this Act; plus

(5) an amount equal to 90 per centum of the sums expended during such quarter [(as found necessary by the Secretary for the proper and efficient administration of the plan)] which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;

(6) an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) [(1) (Repealed)]

[(2)] (*1*) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to

individuals aged 65 or over *and disabled individuals entitled to hospital insurance benefits under title XVIII* which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of title XVIII *other than amounts expended under provisions of the plan as required by section 1902(a)(34)*.

[(3)] *(2)* For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

[(c)(1) If the Secretary finds, on the basis of satisfactory information furnished by a State, that the Federal medical assistance percentage for such State applicable to any quarter in the period beginning January 1, 1966, and ending with the close of June 30, 1969, is less than 105 per centum of the Federal share of medical expenditures by the State during the fiscal year ending June 30, 1965 (as determined under paragraph (2)), then 105 per centum of such Federal share shall be the Federal medical assistance percentage (instead of the percentage determined under section 1905(b)) for such State for such quarter and each quarter thereafter occurring in such period and prior to the first quarter with respect to which such a finding is not applicable.

(2) For purposes of paragraph (1), the Federal share of medical expenditures by a State during the fiscal year ending June 30, 1965, means the percentage which the excess of—

(A) the total of the amounts determined under sections 3, 403, 1003, 1403, and 1603 with respect to expenditures by such State during such year as aid or assistance under its State plans approved under titles, I, IV, X, XIV, and XVI, over

(B) the total of the amounts which would have been determined under such sections with respect to such expenditures during such year if expenditures as aid or assistance in the form of medical or any other type of remedial care had not been counted,

is of the total expenditures as aid or assistance in the form of medical or any other type of remedial care under such plans during such year.]

(d) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) [, (b), and (c)] *and (b)* for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection. Expenditures for which payments were made to the State under subsection (a) shall be treated as an

overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1902(a)(25).

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(e) [(Repealed).] *With respect to amounts expended during any quarter (commencing with the calendar quarter which begins on January 1, 1974) as medical assistance under the State plan (including amounts for premiums as described in subsection (a)(1)) in providing services to any individual who, at any time during the twelve-month period ending with the month preceding the month in which he received such services resided on or adjacent to a Federal Indian reservation, and was eligible for comprehensive health services under the Indian Health Service program conducted within the Public Health Service, the Federal medical assistance percentage shall be increased to 100 per centum.*

(f) (1)(A) Except as provided in paragraph (4), payment under the preceding provisions of this section shall not be made with respect to any amount expended as medical assistance in a calendar quarter, in any State, for any member of a family the annual income of which exceeds the applicable income limitation determined under this paragraph.

(B)(i) Except as provided in clause (ii) of this subparagraph, the applicable income limitation with respect to any family is the amount determined, in accordance with standards prescribed by the Secretary, to be equivalent to 133⅓ percent of the highest amount which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under part A of title IV of this Act.

(ii) If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined under clause (i) to take account of families of different sizes.

(C) The total amount of any applicable income limitation determined under subparagraph (B) shall, if it is not a multiple of $100 or such other amount as the Secretary may prescribe, be rounded to the next higher multiple of $100 or such other amount, as the case may be.

(2) In computing a family's income for purposes of paragraph (1), there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family for medical care or for any other type of remedial care recognized under State law.

(3) For purposes of paragraph (1)(B), in the case of a family consisting of only one individual, the "highest amount which would ordinarily be paid" to such family under the State's plan approved

under part A of title IV of this Act shall be the amount determined by the State agency (on the basis of reasonable relationship to the amounts payable under such plan to families consisting of two or more persons) to be the amount of the aid which would ordinarily be payable under such plan to a family (without any income or resources) consisting of one person if such plan (without regard to section 408) provided for aid to such a family.

[(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual who, at the time of the provision of the medical assistance giving rise to such expenditure—

[(A) is a recipient of aid or assistance under a plan of such State which is approved under title I, X, XIV, or XVI, or part A of title IV, or

[(B) is not a recipient of aid or assistance under such a plan but (i) is eligible to receive such aid or assistance, or (ii) would be eligible to receive such aid or assistance if he were not in a medical institution.]

"(4) *The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—*

"(A) *who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or*

"(B) *who is not receiving such aid or assistance, and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or*

"(C) *with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1),*

at the time of the provision of the medical assistance giving rise to such expenditure."

(g)(1) With respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1876), the Federal medical assistance percentage shall be decreased as follows: After an individual has received care as an inpatient in a hospital (including an institution for tuberculosis), skilled nursing facility or intermediate care facility on 60 days, or in a hospital for mental diseases on 90 days (whether or not such days are consecutive), during any fiscal year, which for pur-

poses of this section means the four calendar quarters ending with June 30, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual in the same fiscal year shall be decreased by 33⅓ per centum thereof unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services (including tuberculosis hospitals), skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), there is in operation in the State an effective program of control over utilization of such services; such a showing must include evidence that—

(A) in each case for which payment is made under the State plan, a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and recertifies, where such services are furnished over a period of time, in such cases, at least every 60 days, and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services; and

(B) in each such case, such services were furnished under a plan established and periodically reviewed and evaluated by a physician;

(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby the necessity for admission and the continued stay of each patient in such institution is periodically reviewed and evaluated (with such frequency as may be prescribed in regulations of the Secretary) by medical and other professional personnel who are not themselves directly responsible for the care of the patient [and who are not employed by] or financially interested in any such institution *or*, *except in the case of hospitals, employed by the institution*; and

(D) such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to section 1902(a)(26) and (31) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.

In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1812.

(2) The Secretary shall, as part of his validation procedures under this subsection, conduct sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this title, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

(h) (1) If the Secretary determines for any calendar quarter beginning after June 30, 1973, with respect to any State that there does not exist a reasonable cost differential between the statewide average cost of skilled nursing facility services and the statewide average cost of intermediate care facility services in such State, the Secretary may reduce the amount which would otherwise be considered as expenditures under the State plan by any amount which in his judgment is a reasonable equivalent of the difference between the amount of the expenditures by such State for intermediate care facility services and the amount that would have been expended by such State for such services if there had been a reasonable cost differential between the cost of skilled nursing facility services and the cost of intermediate care facility services.

(2) In determining whether any such cost differential in any State is reasonable the Secretary shall take into consideration the range of such cost differentials in all States.

(3) For the purposes of this subsection, the term "cost differential" for any State for any quarter means, as determined by the Secretary on the basis of the data for the most recent calendar quarter for which satisfactory data are available, the excess of—

(A) the average amount paid in such State (regardless of the source of payment) per inpatient day for skilled nursing facility services, over

(B) the average amount paid in such State (regardless of the source of payment) per inpatient day for intermediate care facility services.

(4) For purposes of this subsection, the term "cost" shall mean amounts reimbursable by the State under a State plan approved under this title.

(i) Payment under the preceding provisions of this section shall not be made—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1842(b)(3); or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D), (E), or (F) of section 1866(b)(2); or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for care or services furnished under the plan by a hospital or skilled nursing facility unless such hospital or skilled nursing home has in effect a utilization review plan which meets the requirements imposed by section 1861(k) for purposes of title XVIII; and if such hospital or skilled nursing facility has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k).

(j) Notwithstanding the preceding provisions of this section—

(1) in determining the amount payable to any State with respect to expenditures for skilled nursing facility services furnished in any calendar quarter beginning after December 31, 1972, there shall not be included as expenditures under the State plan any amount in excess of the product of (A) the number of inpatient days of skilled nursing facility services provided under the State plan in such quarter, and (B) 105 per centum of the average per diem cost of such services for the fourth calendar quarter preceding such calendar quarter: and

(2) in determining the amount payable to any State with respect to expenditures for intermediate care facility services furnished in any calendar quarter beginning after December 31, 1972, there shall not be included as expenditures under the State plan any amount in excess of the product of (A) the number of inpatient days of intermediate care facility services provided in such quarter under each of the plans of such State approved under titles I, X, XIV, XVI, and XIX, and (B) 105 per centum of the average per diem cost of such services for the fourth calendar quarter preceding such calendar quarter.

For purposes of determining the amount payable to any State with respect to any quarter under paragraphs (1) and (2), the Secretary may by regulation increase the percentage specified in clause (B) of each such paragraph to the extent necessary to take account of increases in per diem costs which result directly from increases in the Federal minimum wage, or which otherwise result directly from cost increases which the Secretary determines are attributable to the upgrading of services and facilities required by this Act or from provisions of Federal law enacted (or amendments to Federal law made) after the date of the enactment of the Social Security Amendments of 1972.

(j)(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any institution during any period that an order for suspension of payment (as authorized by this subsection) is effective with respect to such institution.

(2) The Secretary may issue a suspension of payment order with respect to any institution if—

(A) such institution (i) does not (at the time such order is issued) have in effect an agreement with the Secretary which is entered into pursuant to section 1866; and (ii) did (prior to the time such order is issued) have in effect such an agreement; and

(B)(i) The Secretary has been unable to collect (or make satisfactory arrangement for the collection of) amounts due on account of overpayments made to such institution under title XVIII; or

(ii) the Secretary has been unable to obtain from such institution the data and information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII.

(3) Whenever the Secretary issues any order for suspension of payment under this subsection with respect to any institution, he shall submit a notice of such order to the single State agency (referred to in section 1902(a)(5)) of each State which he has reason to believe does or may utilize the services of such institution in providing medical assistance under a plan approved under this title.

(4) Any order for suspension of payment issued with respect to any institution under this subsection shall become effective, in the case of any State plan approved under this title, on the 60th day after the date the State agency (referred to in section 1902(a)(5)) administering or supervising the administration of such plan receives notice of such order submitted pursuant to paragraph (3). Any such order shall cease to be effective at such time as the Secretary is satisfied that the institution is participating in substantial negotiations which seek to remedy the conditions which gave rise to his order of suspension of payments, or that the amounts (referred to in paragraph (2)) are no longer due from such institution or that a satisfactory arrangement has been made for the payment by such institution of any such amounts. Upon the determination of the Secretary that any such order with respect to any such institution shall cease to be effective, he shall forthwith notify each State agency to which he has therefore submitted notice under paragraph (3) with respect to such institution.

(5) Whenever any order which has been issued by the Secretary under the preceding provisions of this subsection with respect to an institution ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such institution shall be made to such State for the month in which such order ceases to be effective.

(k) The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of section 1876 for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this title.

(l) Payment under the preceding provisions of this section shall be made with respect to any amount expended during calendar quarters commencing after June 30, 1974 by a State as payment on a per capita or similar basis for the provision of medical assistance only if—

(1) the entity to which such payment is made meets the definition of a health maintenance organization contained in section 1876(b), other than the provisions of clauses (2),(3), and (7),

(2) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such entity, or (B) under formal contractual arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

(3) provides either directly or through formal contractual arrangements with others all the services covered under the State plan, except to the extent that the State shall have secured from the Secretary a waiver with respect to any particular service, which waiver shall not be approved by the Secretary unless the State provides assurances satisfactory to the Secretary that an alternative arrangement will be provided for the provision of such service to individuals receiving medical assistance through such entity;

(4) of the enrolled members of such entity not less than (A) 50 per centum of such members (in case such entity is not an entity described in clause (B)) are individuals who are neither entitled to benefits under title XVIII nor eligible for medical assistance under the State plan approved under this title, or (B) in case such entity serves a geographic area in which individuals (referred to in clause (A)) constitute less than 50 per centum of the total population, a per centum equal to whichever of the following is the larger: (i) a per centum of such members equal to the per centum of such total population which consists of such individuals, or (ii) 25 per centum of such members; and

(5) such payment is made under a contract or other arrangement which has been approved in advance by the Secretary and which meets requirements imposed by regulations which the Secretary shall prescribe for the purpose of assuring that payments by a State on a per capita or similar basis for the provision of medical assistance are subject to substantially the same requirements as those imposed by subsections (a) and (i) of section 1876 with respect to title XVIII, except that, notwithstanding the provisions of section 1876(i)(2)(A), such regulations may authorize a risk sharing contract or arrangement with an otherwise qualified entity which has a current enrollment of at least 5,000 members on a prepaid capitation or similar basis.

Operation of State Plans

Sec. 1904. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1902; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure.)

Definitions

Sec. 1905. For purposes of this title—

(a) The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to [individuals not receiving aid or assistance under the State's plan approved under title I, X, XIV, or XVI, or part A of title IV] *individuals (other than individuals with respect to whom there is being paid. or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI,* who are

(i) under the age of 21,

(ii) relatives specified in section 406(b)(1) with whom a child is living if such child, except for section 406(a)(2), is (or would, if needy, be) a dependent child under part A of title IV,

(iii) 65 years of age or older,

(iv) blind, *with respect to States eligible to participate in the State plan program established under title XVI,*

(v) 18 years of age or older and permanently and totally disabled, [or] *with respect to States eligible to participate in the State plan program established under title XVI,*

(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approval under title I, X, XIV, or XVI, *or*

(vii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the State plan program established under title XVI,

but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services (other than services in an institution for tuberculosis or mental diseases);

(2) outpatient hospital services;

(3) other laboratory and X-ray services;

(4)(A) skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older; (B) effective July 1, 1969, such early and periodic screening and diagnosis of individuals who

are eligible under the plan and are under the age of 21 to ascertain their physical or mental defects, and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary; and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;

(5) physicians' services furnished by a physician (as defined in section 1861(r)(1)), whether furnished in the office, the patient's home, a hospital, or a skilled nursing facility, or elsewhere;

(6) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

(7) home health care services;

(8) private duty nursing services;

(9) clinic services;

(10) dental services;

(11) physical therapy and related services;

(12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(13) other diagnostic, screening, preventive, and rehabilitative services;

(14) inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;

(15) intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases) for individuals who are determined, in accordance with section 1902(a)(31)(A), to be in need of such care;

(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under [21, as defined in subsection (e);] *age 21, as defined in subsection (h);*

(17) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary;

except as otherwise provided in paragraph (16), such term does not include—

(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases,

For purposes of clause (vi) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under

title I, X, XIV, or XVI), and such person is determined, under such a State plan, to be essential to the well being of such individual.

(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1110(a) [(8) except that the Secretary shall promulgate such percentage as soon as possible after the enactment of this title, which promulgation shall be conclusive for each of the six quarters in the period beginning January 1, 1966, and ending with the close of June 30, 1967.] *(8)*.

(c) For purposes of this title the term "intermediate care facility" means an institution which (1) is licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing [home] *facility* is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, (2) meets such standards prescribed by the Secretary as he finds appropriate for the proper provision of such care, and (3) meets such standards of safety and sanitation as are established under regulation of the Secretary in addition to those applicable to nursing homes under State law. The term "intermediate care facility" also includes any skilled nursing [home] *facility* or hospital which meets the requirements of the preceding sentence. The term "intermediate care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State. The term "intermediate care facility" also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clauses (1). With respect to services furnished to individuals under age 65, the term "intermediate care facility" shall not include, except as provided in subsection (d), any public institution or distinct part thereof for mental diseases or mental defects.

(d) The term "intermediate care facility services" may include services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions if—

(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and which meet such standards as may be prescribed by the Secretary;

(2) the mentally retarded individual with respect to whom a request for payment is made under a plan approved under this title is receiving active treatment under such a program; and

(3) the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this title, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this title.

(e) In the case of any State the State plan of which (as approved under this title)—

(1) does not provide for the payment of services (other than services covered under section 1902(a)(12)) provided by an optometrist; but

(2) at a prior period did provide for the payment of services referred to in paragraph (1):

the term "physicians' services" (as used in subsection (a)(5)) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term "physicians' services", as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.

(f) For purposes of this title, the term "skilled nursing facility services" means services which are or were required to be given an individual who needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis.

(g) If the State plan includes provision of chiropractors' services, such services include only—

(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5); and

(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

(h)(1) For purposes of paragraph (16) of subsection (a), the term "inpatient psychiatric hospital services for individuals under age 21" includes only—

(A) inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission on Accreditation of Hospitals;

(B) inpatient services which, in the case of any individual, (i) involves active treatment [(i)] which meets such standards as may be prescribed [pursuant to title XVIII] in regulations by the Secretary, and (ii) [which] a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such serv-

ices are necessary, to the extent that eventually such services will no longer be necessary; and

(C) inpatient services which, in the case of any individual, are provided prior to (A) the date such individual attains age 21, or (B) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (i) the date such individual no longer requires such services, or (ii) if earlier, the date such individual attains age 22;

(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph [(e)] (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State and the political subdivisions thereof) from non-Federal funds for such services.

[(h)] *(i)* For purposes of this title, the term "skilled nursing facility" also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as being a qualified skilled nursing facility by meeting the requirements of section 1861(i) [.] *or*

(j) The term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under title XVI.

Sec. 1906. [Repealed.]

Observance of Religious Beliefs

Sec. 1907. Nothing in this title shall be construed to require any State which has a plan approved under this title to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

State Programs for Licensing of Administrators of Nursing Homes

Sec. 1908. (a) For purposes of section 1902(a)(29), a "State program for licensing of administrators of nursing homes" is a program

which provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

(b) Licensing of nursing home administrators shall be carried out by the agency of the State responsible for licensing under the healing arts licensing act of the State, or, in the absence of such act or such an agency, a board representative of the professions and institutions concerned with care of chronically ill and infirm aged patients and established to carry out the purposes of this section.

(c) It shall be the function and duty of such agency or board to—

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(d) No State shall be considered to have failed to comply with the provisions of section 1902(a)(29) because the agency or board of such State (established pursuant to subsection (b)) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1902(a)(29) are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c). [No State shall be considered to have failed to comply with the provisions of section 1902(a)(29) because the agency or board of such State (established pursuant to subsection (b)) shall have granted any waiver, with respect to any individual who, during all of the calendar years immediately preceding the calendar year in which the requirements prescribed in section 1902(a)(29) are first met

by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such board pursuant to subsection (c) (1) other than such standards as relate to good character or suitability if—

[(1) such waiver is for a period which ends after being in effect for two years or on June 30, 1972, whichever is earlier, and

[(2) there is provided in the State (during all of the period for which waiver is in effect), a program of training and instruction designed to enable all individuals, with respect to whom any such waiver is granted, to attain the qualifications necessary in order to meet such standards.

[(e) (1) There are hereby authorized to be appropriated for fiscal year 1968 and the four succeeding fiscal years such sums as may be necessary to enable the Secretary to make grants to States for the purpose of assisting them in instituting and conducting programs of training and instruction of the type referred to in subsection (d) (2).

[(2) No grant with respect to any such program shall exceed 75 per centum of the reasonable and necessary cost, as determined by the Secretary, of instituting and conducting such program.

[(f) For the purpose of advising the Secretary and the States in carrying out the provisions of this section, there is hereby created a National Advisory Council on Nursing Home Administration which shall consist of nine persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include, but not be limited to, representatives of State health officers, State welfare directors, nursing home administrators, and university programs in public health or medical care administration.

[(2) In addition to the function stated in paragraph (1) of this subsection, it shall be the function and duty of the Council (A) to study and identify the core of knowledge that should constitute minimally the training in the field of institutional administration which should qualify an individual to serve as a nursing home administrator; (B) to study and identify the experience in the field of institutional administration that a nursing home administrator should be required to possess; (C) to study and develop model techniques for determining whether an individual possesses such qualifications; (D) to study and develop model criteria for granting waivers under the provisions of subsection (d); (E) to study and develop suggested programs of training referred to in subsection (d); (F) to study, develop, and recommend programs of training and instruction for those desiring to pursue a career in nursing home administration; (G) to complete the functions in (A) through (E) above by July 1, 1969, and submit a written report to the Secretary which report shall be submitted to the States to assist them in carrying out the provisions of this section.

[(3) Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be

allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[(4) The Secretary may at the request of the Council engage such technical assistance as may be required to carry out its functions; and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

(5) The council shall be appointed by the Secretary prior to July 1, 1968, and shall cease to exist as of December 31, 1971.]

[(g)] (*e*) As used in this section, the term—

(1) "nursing home" means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary, but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts; and

(2) "nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

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INTERNAL REVENUE CODE

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SUBTITLE A—INCOME TAXES

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subpart A—Credits Allowable

Sec. 31. Tax withheld on wages.

Sec. 32. Tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds.

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Sec. 42. *Tax credit for low income workers with families.*

Sec. [42] *43.* Overpayment of tax.

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SEC. 42. TAX CREDIT FOR LOW-INCOME WORKERS WITH FAMILIES.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—There shall be allowed to a taxpayer who is an eligible individual as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his employer with respect to wages received by the taxpayer during that year. In the case of a taxpayer who is married (as determined under section 143) and who files a joint return of tax with his spouse under section 6013 for the taxable year, the amount of the credit allowable by this subsection shall be an amount equal to the applicable percentage (as determined under paragraph (2)) of the social security taxes imposed on him and his spouse, and their employers, with respect to wages received by the taxpayer and his spouse during that year.

(2) The APPLICABLE PERCENTAGE.—The percentage under paragraph

(1) applicable to the social security taxes is—

(A) 86 percent for calendar years 1974 through 1977,

(B) 83 percent for calendar years 1978 through 1980,

(C) 80 percent for calendar years 1981 through 1985,

(D) 78 percent for calendar years 1986 through 2010, and

(E) 68 percent for calendar years beginning after December 31, 2010.

(b) LIMITATIONS.—

(1) MAXIMUM CREDIT.—The amount of the credit allowable to a taxpayer (or to a taxpayer and his spouse in the case of a joint return of tax under section 6013) for any taxable year under subsection (a) shall not exceed an amount equal to 10 percent of so much of the wages (as defined in section 3121(a)) as does not exceed $4,000 received by that individual (or by that individual and his spouse in the case of a joint return of tax) during that year with respect to employment (as defined in section 3121(b) without regard to the exclusion set forth in paragraph (9) of that section).

(2) REDUCTION FOR ADDITIONAL INCOME.—The amount of the credit allowable under subsection (a) for any taxable year (after the application of paragraph (1)) shall be reduced by one-fourth of the amount by which a taxpayer's income, or, if he is married (as determined under section 143), the total of his income and his spouse's income, for the taxable year exceeds $4,000. For purposes of this paragraph, the term 'income' means adjusted gross income (as defined in section 62 but without regard to paragraph (3) (relating to long-term capital gains)) plus—

(A) any amount described in section 71(b) (relating to payments to support minor children), 71(c) (relating to alimony and separate maintenance payments paid as a prin-

cipal sum paid in installments), *or 74*(*b*) (*relating to certain prizes and awards*),

(*B*) *any amount excluded from income under section 101* (*relating to certain death benefits*), *102* (*relating to gifts and inheritances*), *103* (*relating to interest on certain governmental obligations*), *105*(*d*) (*relating to amounts received under wage continuation accident and health plans*), *107* (*relating to rental value of parsonages*), *112* (*relating to certain combat pay of members of the Armed Forces*), *113* (*relating to mustering-out payments for members of the Armed Forces*), *116* (*relating to partial exclusion of dividends received by individuals*), *117* (*relating to scholarships and fellowship grants*), *119* (*relating to meals or lodging furnished for the convenience of the employer*), *121* (*relating to gain from sale or exchange of residence by individual who has attained age 65*), *911* (*relating to earned income from sources without the United States*), *or 931* (*relating to income from sources within possessions of the United States*),

(*C*) *any amount received as a payment from a public agency based upon need, age, blindness, or disability, or as a payment from a public agency for the general support of the taxpayer and his family* (*as determined by the Secretary or his delegate*), *other than any payment for the purchase of prosthetic devices or medical services, and*

(*D*) *any amount received as an annuity, pension, retirement, or disability benefit* (*including veterans' compensation and pensions, workmen's compensation payments, monthly insurance payments under title II of the Social Security Act, railroad retirement annuities and pensions, and benefits under any Federal or State unemployment compensation law*).

(*3*) *Application with section 6428—The amount allowable to a taxpayer, or to a taxpayer and his spouse, as a credit under subsection* (*a*) *for any taxable year* (*after the application of paragraphs* (*1*) *and* (*2*) *shall be reduced by the sum of any amounts received under section 6428 during that year.*

(*c*) *Definitions.—For purposes of this section—*

(*1*) *Eligible individual.—The term "eligile individual" means an individual who maintains a household* (*within the meaning of section 214*(*b*)(*3*)) *in the United States which is the principal place of abode of the individual and a child of that individual with respect to whom he is entitled to a deduction under section 151*(*e*)(*1*)(*B*) (*relating to additional exemption for dependents*).

(*2*) *Social security taxes.—The terms "social security taxes" means the aggregate amount of taxes imposed by sections 3101* (*relating to rate of tax on employees under the Federal Insurance Contributions Act*) *and 3111* (*relating to rate of tax on employers under such Act*) *with respect to the wages* (*as defined in section 3121*(*a*)) *received by an individual and his spouse with respect to employment* (*as defined in section 3121*(*b*)), *or which would be imposed with respect to such wages by such sections if the definition of the term 'employment'* (*as defined in section*

3121(b)) did not contain the exclusion set forth in paragraph (9) of such section.

SEC. [42] *43.* OVERPAYMENT OF TAX

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PART *VI.* ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS
SEC. 161 * * *

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SEC. 164. TAXES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes.

(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) State and local general sales taxes.

[(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels.]

In addition, there shall be allowed as a deduction State and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income).

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) PERSONAL PROPERTY TAXES.—The term "personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property.

(2) GENERAL SALES TAXES.—

(A) IN GENERAL.—The term "general sales tax" means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

(B) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) the fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

(ii) the fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(C) ITEMS TAXED AT DIFFERENT RATES. Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

(D) COMPENSATING USE TAXES.—A compensating use tax in respect of an item shall be treated as a general sales tax. For pur-

poses of the preceding sentence, the term "compensating use tax" means, in respect of any item, a tax which—

(i) is imposed on the use, storage, or consumption of such item, and

(ii) is complementary to a general sales tax, but only if a deduction is allowable under subsection (a)(4) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

(E) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

(3) STATE OR LOCAL TAXES.—A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(4) FOREIGN TAXES.—A foreign tax includes only a tax imposed by the authority of a foreign country.

(5) SEPARATELY STATED GENERAL SALES TAXES AND GASOLINE TAXES.—If the amount of any general sales tax [or of any tax on the sale of gasoline, diesel fuel, or other motor fuel] is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

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CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

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SEC. 1401. RATE OF TAX.

(a) * * *

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(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) in the case of any taxable year beginning after December 31, 1967, and before January 1, 1973, the tax shall be equal to 0.60 percent of the amount of the self-employment income for such taxable year;

[(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1978, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

[(3) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

[(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year;

[(5) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year.]

(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

(3) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

(4) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

(5) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year.

(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

SEC. 1402. DEFINITIONS.

(a) NET EARNINGS FROM SELF-EMPLOYMENT.—The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(9) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the pro-

duction of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

* * * * * * *

(11) in the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) shall not apply.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements methods, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and

sold in carrying on such trade or business, adjusted (after such reduction, in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (i), or by a partnership of which an individual is a member on a regular basis as defined in subsection (i), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than $1,600 and less than 66⅔ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed $1,600.

An agreement between an owner or tenant of land and another person under which such other person is to manage and supervise the production of agricultural or horticultural commodities on such land shall not be considered to be an arrangement (described in paragraph (1)(A) of the first sentence of this subsection) which provides for material participation by the owner or tenant in production or management, if under such arrangement it is the responsibility and duty of such other person, as the agent of such owner or tenant, to manage and supervise such production (including the selection of the tenants or other personnel whose services will be utilized in such production) without personal participation therein by such owner or tenant, and if, in fact, there is no personal participation by such owner or tenant in such production or management.

(b) SELF-EMPLOYMENT INCOME.—The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year; except that such term shall not include—

(1) that part of the net earnings from self-employment which is in excess of—

(A) * * *

* * * * * * *

(H) for any taxable year beginning after 1973 and before 1975, (i) [$12,600] *$13,200*, minus (ii) the amount of the wages paid to such individual during the taxable year; and

* * * * * * *

(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

SUBTITLE C—EMPLOYMENT TAXES

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CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

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SUBCHAPTER A—TAX ON EMPLOYEES

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SEC. 3101. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages received during the calendar year 1968, the rate shall be 3.8 percent;

(2) with respect to wages received during the calendar years 1969 and 1970, the rate shall be 4.2 percent;

(3) with respect to wages received during the calendar years 1971 and 1972, the rate shall be 4.6 percent;

[(4) with respect to wages received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;

[(5) with respect to wages received during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and

[(6) with respect to wages received after December 31, 2010, the rate shall be 5.85 percent.]

(4) with respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

(5) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

(6) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent.

(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar years 1968, 1969, 1970, 1971, and 1972, the rate shall be 0.60 percent;

[(2) with respect to wages received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 1.0 percent;

[(3) with respect to wages received during the calendar years 1978, 1979, and 1980, the rate shall be 1.25 percent;

[(4) with respect to wages paid during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

[(5) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.]

(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

(3) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(4) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

(5) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

(6) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.

(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, wages received or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

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SUBCHAPTER B—TAX ON EMPLOYERS

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SEC. 3111. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar year 1968, the rate shall be 3.8 percent;

(2) with respect to wages paid during the calendar years 1969 and 1970, the rate shall be 4.2 percent;

(3) with respect to wages paid during the calendar years 1971 and 1972, the rate shall be 4.6 percent;

[(4) with respect to wages paid during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;

[(5) with respect to wages paid during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and

[(6) with respect to wages paid after December 31, 2010, the rate shall be 5.85 percent.]

(4) with respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

(5) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

(6) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.

(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar years 1968, 1969, 1970, 1971, and 1972, the rate shall be 0.60 percent;

[(2) with respect to wages paid during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 1.0 percent;

[(3) with respect to wages received during the calendar years 1978, 1979, and 1980, the rate shall be 1.25 percent;

[(4) with respect to wages received during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

[(5) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent.]

(2) with respect to wages paid during the calendar year 1973, the rate shall be 1.0 percent;

(3) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(4) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

(5) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

(6) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.

(c) During any period in which there is in effect an agreement entered into pursuant to section 232 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

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SUBCHAPTER C—GENERAL PROVISIONS

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SEC. 3121. DEFINITIONS.

(a) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to [$10,800] *$13,200* with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to [$10,800] *$13,200* to such individual during such calendar year any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

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SEC. 3122. FEDERAL SERVICE.

In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the determination whether an individual has performed service which constitutes employment as defined in section 3121(b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121(a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the [$10,800] *$13,200* limitation in section 3121(a)(1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121(a)(1). Payments

of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section the Secretary shall be deemed to be the head of such instrumentality.

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SEC. 3125. RETURNS IN THE CASE OF GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA.

(a) GUAM.—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of Guam or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of Guam or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the [$10,800] *$13,200* limitation in section 3121(a)(1).

(b) AMERICAN SAMOA.—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of American Samoa or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of American Samoa or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with re-

spect to the service of such individuals without regard to the [$10,800] *$13,200* limitation in section 3121(a)(1).

(c) DISTRICT OF COLUMBIA.—In the base of the taxes imposed by this chapter with respect to service performed in the employ of the District of Columbia or in the employ of any instrumentality which is wholly owned thereby, the return and payment of the taxes may be made by the Commissioners of the District of Columbia or by such agents as they may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the [$10,800] *$13,200* limitation in section 3121(a)(1).

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CHAPTER 61—INFORMATION AND RETURNS

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SUBCHAPTER A—RETURNS AND RECORDS

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PART II—TAX RETURNS OR STATEMENTS

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SUBPART A—GENERAL REQUIREMENT

Sec. 6011. General requirement of return, statement or list.

SEC. 6011. GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.

(a) GENERAL RULE.—When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

* * * * * * *

(d) INTEREST EQUALIZATION TAX RETURNS, ETC.

(4) *RETURNS OF TAXPAYERS RECEIVING ADVANCE REFUND OF SECTION 24 CREDIT.—Every taxpayer who elects to receive an advance refund of the credit allowed by section 42 (relating to tax credit for low-income workers with families) during the taxable year shall file a return for that year, together with such additional information as the Secretary or his delegate may require.*

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CHAPTER 63—ASSESSMENT

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SUBCHAPTER A—IN GENERAL

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SEC. 6201. ASSESSMENT AUTHORITY.

(a) AUTHORITY OF SECRETARY OR DELEGATE.—The Secretary or his delegate is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(4) ERRONEOUS CREDIT UNDER SECTION 39 *OR 42*.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) *or section 42 (relating to tax credit for low income workers with families)*, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary or his delegate in the same manner as in the case of a mathematical error appearing upon the return.

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SUBTITLE F—PROCEDURE AND ADMINISTRATION

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CHAPTER 64—COLLECTION

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SUBCHAPTER A.—GENERAL PROVISIONS

Sec.
6301. Collection authority.
6302. Mode or time of collection.
6303. Notice and demand for tax.
6304. Collection under the Tariff Act.
6305. Collection of certain liability.

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SEC. 6305. COLLECTION OF CERTAIN LIABILITY.

(a) IN GENERAL.—Upon receiving a certification from the Secretary of Health, Education, and Welfare, under section 452(b) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the Secretary of Health, Education, and Welfare, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply, and

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children.

(b) REVIEW OF ASSESSMENTS AND COLLECTIONS.—No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary or his delegate under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary or his delegate in any proceeding. This subsection does not preclude any legal, equitable, or administrative action by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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SUBCHAPTER A—PROCEDURE IN GENERAL

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SEC. 6401. AMOUNTS TREATED AS OVERPAYMENTS.

(a) ASSESSMENT AND COLLECTION AFTER LIMITATION PERIOD.—The term "overpayment" includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) EXCESS CREDITS.—If the amount allowable as credits under sections 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), *42 (relating to tax credit for low income workers with families)*, and 667(b) (relating to taxes paid by certain trusts) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, [and 39] *39, and 42*), the amount of such excess shall be considered an overpayment.

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SUBCHAPTER B—RULES OF SPECIAL APPLICATION

Sec. 6411. Tentative carryback adjustments.
Sec. 6412. Floor stocks refunds.
Sec. 6413. Special rules applicable to certain employment taxes.
Sec. 6414. Income tax withheld.

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SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.

(a) * * *

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(c) SPECIAL REFUNDS.—

(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed $3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed $4,200, or (B) during any calendar year after the calendar year 1958 and prior to the calendar year 1966, the wages received by him during such year exceed $4,800, or (C) during any calendar year after the calendar year 1965 and prior to the calendar year 1968, the wages received by him during such year exceed $6,600, or (D) during any calendar year after the calendar year 1967 and prior to the calendar year 1972, the wages received by him during such year exceed $7,800, or (E) during any calendar year after the calendar year 1971 and

prior to the calendar year 1973, the wages received by him during such year exceed $9,000 or (F) during any calendar year after the calendar year 1972 and prior to the calendar year 1974, the wages received by him during such year exceed $10,800, or (i) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed [$12,600,] *$13,200*, or (H) during any calendar year after 1974, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year; and the employee shall be entitled (subject to the provisions of section 31(b) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first $4,800 of such wages received in such calendar year after 1958 and before 1966, or which exceeds the tax with respect to the first $6,600 of such wages received in such calendar year after 1965 and before 1968, or which exceeds the tax with respect to the first $7,800 of such wages received in such calendar year after 1967 and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971 and before 1973, or which exceeds the tax with respect to the first $10,800 of such wages received in such calendar year after 1972 and before 1974, or which exceeds the tax with respect to the first [$12,600] *$13,200* of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1974 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year.

(2) APPLICABILITY IN CASE OF FEDERAL AND STATE EMPLOYEES, EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS, AND GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA.—

(A) FEDERAL EMPLOYEES.—In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, $4,800 for the calender year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, $6,600 for the calendar year 1966 or 1967, $7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for the calendar year 1972, $10,800 for the calendar year 1973, [$12,600]

$13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calender year after 1974 with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

* * * * * * *

"SEC. 6428. ADVANCE REFUND OF SECTION 42 CREDIT.

(a) IN GENERAL.—A taxpayer may receive an advance refund of the credit allowable to him under section 42 (relating to tax credit for low-income workers with families) not more frequently than quarterly by filing an election for such refund with the Secretary or his delegate at such time and in such form as the Secretary or his delegate may prescribe. If the taxpayer elects to base his claim for refund on social security taxes imposed on him, his spouse, and their employers, the election shall be a joint election signed by the taxpayer and his spouse. An election may not be made under this subsection with respect to the last quarter of the calendar year, and any other election shall specify the quarter or quarters to which it relates and shall be made not later than the fifteenth day of the eleventh month of the taxable year to which it relates. The Secretary or his delegate shall pay any advance refund for which a proper election is made without regard to any liability, or potential liability, for tax under chapter 1 which has accrued, or may be expected to accrue, to the taxpayer for the taxable year to which the election relates.

(b) LIMITATIONS.—

"(1) AMOUNT OF REFUND.—The amount of any refund for which a taxpayer files an election under subsection (a) shall be an amount equal to the amount of the credit allowable under section 42 with respect to social security taxes payable with respect to that taxpayer (or, in the case of a joint election, social security taxes payable with respect to that taxpayer and his spouse) for the quarter or quarters to which the election relates.

(2) INELIGIBLE FOR CREDIT.—No advance fund may be made under this section for any quarter to a taxpayer who, on the basis of the income the taxpayer and his spouse reasonably may expect to receive during the taxable year, will not be entitled to claim any amount as a credit under section 42 for that year.

(3) MINIMUM PAYMENT.—No payment may be made under this section in an amount less than $30.

"(c) COLLECTION OF EXCESS PAYMENTS.—In addition to any other method of collection available to him, if the Secretary or his delegate determines that any part of any amount paid to a taxpayer for any quarter under this section was in excess of the amount to which that taxpayer was entitled for that quarter, the Secretary or his delegate shall notify that taxpayer of the excess payment and may withhold, from any amounts which that taxpayer elects to receive under this section in any subsequent quarter, amounts totaling not more than the amount of that excess.

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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SUBCHAPTER A—ADDITIONS TO THE TAX AND ADDITIONAL AMOUNTS

* * * * * * *

SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

(a) * * *

* * * * * * *

(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) An amount equal to 80 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402(a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

(A) The taxable income shall be placed on an annualized basis by—

(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

(B) The term "adjusted self-employment income" means—

(i) the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

(ii) the excess of [$10,800] *$13,200* over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

* * * * * * *

PUBLIC LAW 92-336

AUTOMATIC ADJUSTMENTS IN BENEFITS AND IN THE CONTRIBUTION AND BENEFIT BASE

Adjustments in Benefits

Sec. 202. (a)(1) * * *

* * * * * * *

(3) (A) Effective [January 1, 1975] *June 1, 1974*, section 215(a) of such Act (as amended by section 201(c) of this Act) is further amended—

(i) by inserting "(or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (i)(2)(D))" after "the following table" in paragraph (1)(A); and

(ii) by inserting "(whether enacted by another law or deemed to be such table under subsection (i)(2)(D))" after "effective month of a new table" in paragraph (2).

(B) Effective [January 1, 1975] *June 1, 1974*, section 215(b)(4) of such Act (as amended by section 201(d) of this Act) is further amended to read as follows:

"(4) The provisions of this subsection shall be applicable only in the case of an individual—

"(A) who becomes entitled to benefits under section 202(a) or section 223 in or after the month in which a new table that appears in (or is deemed by subsection (i)(2)(D) to appear in) subsection (a) becomes effective; or

"(B) who dies in or after the month in which such table becomes effective without being entitled to benefits under section 202(a) or section 223; or

"(C) whose primary insurance amount is required to be recomputed under subsection (f)(2)."

(C) Effective [January 1, 1975] *June 1, 1974*, section 215(c) of such Act (as amended by section 201(e) of this Act) is further amended to read as follows:

"Primary Insurance Amount Under Prior Provisions

"(c)(1) For the purposes of column II of the latest table that appears in (or is deemed to appear in) subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the month in which the latest such table became effective.

"(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223, or who died, before such effective month."

[(4) Effective January 1, 1975, sections 227 and 228 of such Act (as amended by section 201(g) of this Act) are further amended by striking out $58.00 wherever it appears and inserting in lieu thereof "the larger of $58.00 or the amount most rerently established in lieu thereof under section 215(i)", and by striking out $29.00 wherever it appears and inserting in lieu thereof "the larger of $29.00 or the amount most recently established in lieu thereof under section 215(i)".]

* * * * * * *

INCREASE OF EARNINGS COUNTED FOR BENEFIT AND TAX PURPOSES

SEC. 203. (a)(1) * * *

* * * * * * *

(b)(1) * * *

* * * * * * *

(2)(A) Section 3121(a)(1) of such Code (relating to definition of wages) is amended by striking out "$9,000" each place it appears and inserting in lieu therof "$10,800".

(B) Effective with respect to remuneration paid after 1973, section 3121(a)(1) of such Code is amended by striking out "$10,800" each place it appears and inserting in lieu thereof "$12,000".

(C) Effective with respect to remuneration paid after 1974, section 3121(a)(1) of such Code is amended—

(i) by striking out [$12,600] *$13,200* each place it appears and inserting in lieu thereof "the contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(ii) by striking out "by an employer during any calendar year", and inserting in lieu thereof "by an employer during the calendar year with respect to which such contribution and benefit base is effective."

(3)(A) The second sentence of section 3122 of such Code (relating to Federal service) is amended by striking out "$9,000" and inserting in lieu thereof "$10,800".

(B) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of such Code is amended by striking out "$10,800" and inserting in lieu thereof "$12,000".

(C) Effective with respect to remuneration paid after 1974, the second sentence of section 3122 of such Code is amended by striking out "the [$12,600] *$13,200* limitation" and inserting in lieu thereof "the contribution and benefit base limitation".

(4)(A) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out "$9,000" where it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$10,800".

(B) Effective with respect to remuneration paid after 1973, section 3125 of such Code is amended by striking out "$10,800" where it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$12,000".

(C) Effective with respect to remuneration paid after 1974, section 3125 of such Code is amended by striking out "the [$12,600] *$13,200* limitation" where it appears in subsections (a), (b), and (c) and inserting in lieu thereof "the contribution and benefit base limitation".

* * * * * * *

(7)(A) Section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out "$9,000" and inserting in lieu thereof "$10,800".

(B) Effective with respect to taxable years beginning after 1973, section 6654(d)(2)(B)(ii) of such Code is amended by striking out "$10,800" and inserting in lieu thereof "$12,000".

(C) Effective with respect to taxable years beginning after 1974, section 6654(d)(2)(B)(ii) of such Code is amended by striking out "the excess of [$12,000] *$13,200* over the amount" and inserting in lieu thereof "the excess of (I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II) the amount".

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PUBLIC LAW 93-66

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TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

Part A—Increase in Social Security Benefits

COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 201. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, increase the monthly benefits and lump-sum death payments payable under title II of the Social Security Act by *7 per centum* [the percentage by which the Consumer Price Index prepared by the Department of Labor for the month of June 1973 exceeds such index for the month of June 1972].

(2) The provisions of this section (and the increase in benefits made hereunder) shall be effective, in the case of monthly benefits under title II of the Social Security Act, only for months *with respect to which this section is effective* [after May 1974 and prior to January 1975], and, in the case of lump-sum death payments under such title, only with respect to deaths which occur [after May 1974 and prior to January 1975] *in months with respect to which this section is effective.*

(b) The increase in social security benefits authorized under this section shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security

Act for the implementation of cost-of-living increases authorized under title II of such Act, except that the amount of such increase shall be [based on the increase in the Consumer Price Index described in subsection (a)] *7 per centum.*

(c) The increase in social security benefits provided by this section shall—

(1) not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act, and

(2) not (except for purposes of section 203(a)[(2)] of such Act, as in effect after [May 1974] *December 1973, which section (as so in effect) shall, for purposes of the increase in social security benefits provided by this section, be deemed to be in effect for and after the first month with respect to which such increase is effective*) be considered to be a "general benefit increase under this title" (as such term is defined in section 215(i)(3) of such Act);

and nothing in this section shall be construed as authorizing any increase in the "contribution and benefit base" (as that term is employed in section 230 of such Act), or any increase in the "exempt amount" (as such term is used in section 203(f)(8) of such Act).

(d) Nothing in this section shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act for any month after December 1974, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after December 1974. The recognition of the existence of the increase in benefits authorized by the preceding subsections of this section (during the period it was in effect) in the application, after December 1974, of the provisions of sections 202(q) and 203(a) of such Act shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after December 1974.

(e) *For purposes of subsection (a)(2), this section is effective with respect to the month in which this subsection is enacted and for each month thereafter which begins prior to June 1974.*

* * * * * * *

Part B—Provisions Relating to Federal Program of Supplemental Security Income

Increase in supplemental security income benefits

Sec. 210. (a Section 1611(a)(1)(A) and section 1611(b)(1) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972) are each amended by striking out "$1,560" and inserting in lieu thereof "$1,680".

(b) Section 1611(a)(2)(A) and section 1611(b)(2) of such Act (as so enacted) are each amended by striking out "$2,340" and inserting in lieu thereof "$2,520".

(c) The amendments made by this section shall apply with respect to payments for months after [June 1974] *December 1973.*

Supplemental security income benefits for essential persons

Sec. 211. (a)(1) In determining (for purposes of title XVI of the Social Security Act, as in effect after December 1973) the eligibility

for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

(A) the dollar amounts specified in subsection (a) (1) (A) and (2) (A), and subsection (b) (1) and (2), of section 1611 of such Act, shall each be increased by [$840] *$876* [($780 in the case of any period prior to July 1974)] for each such essential person, and

(B) the income and resources of such individual shall (for purposes of such title XVI) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first months that such individual—

(C) does not but would (except for the provisions of subparagraph (B)) meet—

(i) the criteria established with respect to income in section 1611(a) of such Act, or

(ii) the criteria established with respect to resources by such section 1611(a) (or, if applicable, by section 1611(g) of such Act).

* * * * * * *

MANDATORY MINIMUM STATE SUPPLEMENTATION OF SSI BENEFITS PROGRAM

SEC. 212. (a) (1) * * *

(3) (A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection shall (except as provided in [subparagraph (D)] *subparagraphs (D) and (E)*) be an amount equal to (i) the amount by which such individual's "December 1973 income" (as determined under subparagraph (B)) exceeds the amount of such individual's "title XVI benefit plus other income" (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

* * * * * * *

"*(E) (i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act, such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be neecssary to cause the supplementary payment (referred to in paragraph (2) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.*

"*(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2))*

payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family unit referred to in clause (i), and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act."

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PERSONS IN MEDICAL INSTITUTIONS

SEC. 231. For purposes of section 1902(a)(10) of the Social Security Act, any individual who, for all (or any part of) the month of December 1973—

(1) was an inpatient in an institution qualified for reimbursement under title XIX of the Social Security Act, and

(2)(A) *received or* would (except for his being an inpatient in such institution) have been eligible to receive aid or assistance under a State plan approved under title I, X, XIV, or XVI of such Act, [or] *and*

(B) [was,] on the basis of his *status as described in subparagraph (A), was included as an individual eligible* [need for care in such institution, considered to be eligible for aid or assistance under a State plan (referred to in subparagraph (A)) for purposes of determining his eligibility] for medical assistance under a State plan approved under title XIX of such Act (whether or not such individual actually received aid or assistance under a State plan referred to in subparagraph (a)),

shall be deemed to be receiving such aid or assistance for such month and for each succeeding month in a continuous period of months if, for each month in such period—

(3) such individual continues to be (for all of such month) an inpatient in such an institution and would (except for his being an inpatient in such institution) continue to meet the conditions of eligibility to receive aid or assistance under such plan (as such plan was in effect for December 1973), and

(4) such individual is determined (under the utilization review and other professional audit procedures applicable to State plans approved under title XIX of the Social Security Act) to be in need of care in such an institution.

Federal matching under title XIX of the Social Security Act shall be available for the medical assistance furnished to individuals eligible for such assistance under this section.

BLIND AND DISABLED MEDICALLY INDIGENT PERSONS

SEC. 232. For purposes of section 1902(a)(10) of the Social Security Act, any individual who, for the month of December 1973 was eligible [(under the provisions of subparagraph (B) of such section)] for medical assistance by reason of his having been determined to meet the criteria for blindness or disability (established by a state plan approved under title I, X, XIV, or XVI of such Act), shall be deemed *for purposes of title XIX to be an individual who is blind or disabled*

within the meaning of section 1614(a) of the Social Security Act [to be a person described as being a person who "would, if needy, be eligible for aid or assistance under any such State plan" in subparagraph (B) (i) of such section] for each month in a continuous period of months (beginning with the month of January 1974), if, for each month in such period, such individual continues to meet the criteria for blindness or disability so established by such a State plan (as it was in effect for December 1973). Federal matching under title XIX of the Social Security Act shall be available for the medical assistance furnished to individuals eligible for such assistance under this section. *and the other conditions of eligibility contained in the plan of the State approved under title XIX (as it was in effect in December 1973).*

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FOOD STAMP ACT OF 1964

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Sec. 3. As used in the Act—

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(e) The term "household" shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term "household" shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, or (2) an elderly person who meets the requirements of section 10(h) of this Act. [No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household or an elderly person for any purpose of this Act for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92-603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture.] *No individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month during the 18-month period beginning January 1, 1974, if, for such month, such indi-*

vidual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

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AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

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Food Stamps

Sec. 3. The Food Stamp Act of 1964, as amended, is amended as follows:

(a) The second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e)) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof the following: ", or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

[(b) Section 3(e) of the Food Stamp Act of 1964 is amended by striking out the last sentence therein and inserting in lieu thereof the following sentence: "No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household or an elderly person for any purpose of this Act for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture."]

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Sec. 4. * * *

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[(c) No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household for any purpose of the Food Distribution Program for families under section 32 of Public Law 74–320, section 416 of the Agricultural Act of 1949, or other law for any month if

such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture.]

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SOCIAL SECURITY AMENDMENTS OF 1967

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Sec. 204. (a) * * *

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(c)(1) The amendment made by subsection (b) shall in the case of any State be effective on July 1, 1968, or if a statute of such State prevents it from complying with the requirements of such amendment on such date, such amendment shall with respect to such State be effective on July 1, 1969; except such amendment shall be effective earlier (in the case of any State), but not before April 1, 1968, if a modification of the State plan to comply with such amendment is approved on an earlier date.

[(2) The provisions of section 409 of the Social Security Act shall not apply to any State with respect to any quarter beginning after June 30, 1968.]

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SOCIAL SECURITY AMENDMENTS OF 1972

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REPEAL OF TITLES I, X, AND XIV OF THE SOCIAL SECURITY ACT

SEC. 303. (a) Effective January 1, 1974, titles I, X, and XIV of the Social Security Act are repealed.

(b) The amendments made by sections 301 and 302 and the repeals made by subsection (a) shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands.

(c) Section 9 of the Act of April 19, 1950[, is repealed effective January 1, 1974.] (*64 Stat. 47*) *is amended to read as follows:*

SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section 403(a) of the Social Security Act) an amount, in addition to the amount prescribed to be paid to such State under such section, equal to 80 per centum of the total amount of contributions by the State

toward expenditures during the preceding quarter by the State, under the State plan approved under the Social Security Act for aid to dependent children to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under section 403(a) of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section.

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Limitation on Fiscal Liability of States for Optional State Supplementation

Sec. 401. (a)(1) The amount payable to the Secretary by a State for any fiscal year, *other than fiscal year 1974*, pursuant to its agreement or agreements under section 1616 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles, I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section), *and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures.*

(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

(B) the benefits under title XVI of the Social Security Act, plus income not excluded under section 1612(b) of such Act in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriation approved State plan as in effect for January 1972.

(b)(1) For purposes of subsection (a), the term "adjusted payment level under the appropriate approved plan of a State as in effect for January 1972" means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title I, X, XIV, or XVI of the Social Security Act, as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed [the sum of—

(A)] a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan [, and

(B) the bonus value of food stamps in such State for January 1972 (as defined in paragraph (3) of this subsection)]

(2) For purposes of paragraph (1), the term "payment level modification" with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act.

[(3) For purposes of paragraph (1), the term "bonus value of food stamps in a State for January 1972" (with respect to an individual) means—

[(A) the face value of the coupon allotment which would have been provided to such an individual under the Food Stamp Act of 1964 for January 1972, reduced by

[(B) the charge which such an individual would have paid for such coupon allotment.

if the income of such individual, for purposes of determining the charge it would have paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.]

(c) For purposes of this section, the term "non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act" means the difference between—

(1) the total expenditures in such quarters under such plans for aid or assistance (*excluding* expenditures authorized under section 1119 of such Act for repairing the home of an individual who was receiving aid or assistance under one of such plans (as such section was in effect prior to the enactment of this Act)), and

(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act, under section 1118 of such Act, and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures in such quarters.

Transitional Administrative Provisions

Sec. 402. In order for a State to be eligible for any payments pursuant to title IV, V, [XVI] *VI* or XIX of the Social Security Act with respect to expenditures for *the third and fourth quarters in the fiscal year ending June 30, 1974, and* any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising

the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act, during such portion of *the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of* the fiscal year ending June 30, 1975, as may be provided in such agreement.

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TITLE 5, UNITED STATES CODE

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Chapter 53—Pay Rates and Systems

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subchapter II—executive schedule pay rates

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§ 5315 Positions at Level IV

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(98) Assistant Secretary for Child Support, Department of Health, Education, and Welfare.

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ACT OF APRIL 19, 1950

(64 Stat. 47)

* * * * * * *

Sec. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section[s 3(a),] 403(a)[, and 1003(a)] of the Social Security Act) an amount, in addition to the amounts prescribed to be paid to such State under such section[s], equal to 80 per centum of the total amounts of contributions by the State toward expenditures during the preceding quarter by the State, under the State plan[s] approved under the Social Security Act for [old-age assistance,] aid to dependent children[, and aid to the needy blind,] to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under section[s 3(a),] 403(a) [and 1003(a), respectively,] of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such sections.

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XVI. ADDITIONAL VIEWS OF MR. CURTIS

Welfare Reform

It becomes increasingly apparent with every passing day that the existing system of welfare cannot be reformed at the Federal level. Every proposal to do so carries within it the seeds of defeat: new frustrations and added costs, growing welfare rolls and greater politicization of the problem.

In our efforts at welfare reform, we are caught, as it were, between two poles. On the one hand, we seek greater equity in the distribution of welfare; on the other, we seek a plan which ideally will at least reduce costs, end abuses and simplify the system. Both goals are laudable. But, just as with our income tax system, housing assistance, and many other Federal programs, equity and efficiency are not entirely compatible goals. We can move away from the poles toward compromise, but the greater the effort to achieve equity, the more complex the program will become, the more open it will be to abuse and thus, over time, the more likely to remain inequitable and to increase in scope and cost and inefficiency. Conversely, if the program is structured too simply, it is in danger of not meeting minimum demands for equity.

What is clear, however, not only in theory but as evidenced in recent practice, is that the closer the decision-making is kept to the local level—to the people themselves—the more equitable *and* efficient the program will be. Meaningful welfare reform will not be accomplished at the Federal level—not by a total package such as the Administration offered with the Family Assistance Plan, called FAP, which is really a guaranteed annual income plan, and certainly not by patchwork, piecemeal efforts such as that now proposed by the Finance Committee.

The Committee has agreed to a plan which provides for a cash payment to families based upon the amount of the family's earnings. This payment by the Federal Government would be 10% of the earnings for a family earning $4,000 a year or less. In other words, if a family earned $4,000 the Federal Government would supplement their income by $400. If their earnings were $3,000 their supplement would be $300. The percentage would be a lesser amount for those earning over $4,000 at a gradually declining rate, phasing out completely at $5,600. The Committee plan is not limited to individuals now on welfare as a means of assisting them in moving from welfare to gainful employment. This cash payment would be made for all low-wage earners who apply for it.

There is complete agreement with the basic premise of the Chairman in his opposition to FAP on the grounds that it was committed to the proposition that the less one worked and the less he earned, the more he got from the Federal Treasury. There is great merit in the idea which Chairman Long has consistently and effectively advanced that inherent in the welfare program should be the concept of rewarding work, rather than discouraging work. On that point, there is total agreement.

The "work bonus" or a "workfare" plan should be employed as a means of getting people off welfare and into a self-supporting status.

In other words, it should operate as an incentive to move ahead, not as an incentive to "march in place" so that one does not lose his share of the "free money."

The basic work bonus idea should be adapted to and restricted to able-bodied individuals *now on welfare*, and the benefits extended to them for a limited period only, in order to assist and encourage them in the transition from welfare to a fully-supportive working situation. Instead, applying as it does to the working poor not now on welfare, the plan, as reported by the Committee, would mean that about five million heads of families not now receiving a Government check would begin receiving one, at a minimum cost of $1 billion per year. This does nothing to reform the present welfare system or to reduce its cost or scope. It is simply another Federal program piled atop the existing pyramid of laws providing assistance to various individuals.

What the work bonus actually amounts to is a rebate of Social Security taxes. Thus, the Social Security system is being adapted as a vehicle both for distribution of welfare and redistribution of the national wealth. It constitutes a clear move in the direction of phasing out Social Security taxes for low-salaried workers, shifting that burden entirely to employers or higher-salaried workers. It would depart from the principle that each person paid a substantial part of the cost of his Social Security benefit.

The Social Security program is tailored to a clear and specific purpose—meeting the income needs of our citizens at an age when they may no longer be able to earn an income. Clearly it is not a welfare program so long as all those who benefit also significantly contribute. To adapt it as a vehicle for welfare places upon it strains which may ultimately destroy it.

The Administration's plan for FAP went to extremes in an effort to achieve equity—and in so doing created gross new inequities and doubled the costs.

The worst problem with the plan reported by the Committee, however, is that, like FAP, it offers enormous temptation to office holders and office seekers to enlarge the benefits and make more millions eligible for those benefits. Indeed, it does not merely offer a temptation, it creates a positive pressure to do so.

In theory, rewarding work is definitely to be commended. Such a plan as reported by the Committee should be limited to those on welfare for a limited period as a means of aiding their transition from welfare to work.

The Federal government has proven its incapacity to administer welfare or clean up the welfare mess. By contrast, some of the States have demonstrated a convincing ability to do both. Therefore, we should not let welfare reform remain unfinished business. Instead, we should act promptly to return to the States the authority and responsibility for devising and administering their own welfare programs, providing them with the Federal dollars to do that part of the job which the Federal government has been carrying. Such Federal financial assistance should be provided through the mechanism of special revenue sharing, with a minimum of Federal bureaucratic control over its specific allocation. The States should be permitted to write their own regulations and completely manage their own welfare programs.

In this way, we can expect to achieve the maximum possible levels of both equity and efficiency. Some will argue that different eligibility requirements and different benefit levels in different States are not equitable, but standardization, consistency or conformity has very little to do with equity. Equity is a matter of justice. Justice, in the area of welfare assistance, means meeting real human and economic needs in the best way possible.

Human and economic needs across the length and breadth of this great land cannot be equated in terms of a single dollar value. The needs of a rural family in Nebraska can be met in a very different way—and at a very different dollar cost—from similar needs of a ghetto family in New York City. As applied to welfare, let no one tell you that equality—when it refers to eligibility requirements and benefit levels—is synonymous with equity.

Others may argue that history has shown the individual States either cannot or will not do the job adequately if left to their own devices. That is arguing from old history. Relevant recent history demonstrates that individual States not only can do the job but will do it—are doing it. Necessity continues to be the mother of invention. When the States found the Federal government was not going to resolve this problem, those for whom it had reached crises proportions instituted their own reforms and are succeeding in bringing welfare under control. Others will follow suit, if encouraged to do so. The public mood and the constant threat of media exposure in the age in which we now live will never permit any State to lag far behind its sisters in providing adequately for the welfare needs of its citizens. The main obstacle to a State's efforts to reform welfare has been the Federal regulations and dominance. Again it is stressed that the States should be allowed to write their own regulations and run their own welfare programs.

In the 92nd Congress, S. 2037 was introduced to restore to the States the authority and responsibility for welfare assistance. In the bill reported out by the Finance Committee last year as an alternative to FAP, the essential elements of that plan were adopted for application to those welfare families who had no able-bodied person among their number. A workfare plan, far superior to the present workfare proposal, was agreed upon as the vehicle for aiding those welfare families containing an able-bodied member (covering about 40 percent of the total welfare caseload). Many Committee members had reservations about it and would have preferred to see the States given control over the entire program.

The efforts for welfare reform should not be abandoned. The workfare proposal should be used as a vehicle for assisting those on welfare in their transition to gainful employment and that assistance should be for a limited period only.

The Administration's plan for special revenue sharing should be the plan for the Federal government to pay its just share of the welfare load and the operation and management of welfare should be left to the States. Each State should decide who is eligible for welfare, the amount of welfare, how it is to be paid and what the work requirements should be.

CARL T. CURTIS.

XVII. ADDITIONAL VIEWS OF MR. FANNIN AND MR. HANSEN

The Social Services Amendments of 1973: Reaction Without Reform

(NOTE: On October 30th the Committee reconsidered its previous action on S. 2528, the Social Services Amendments of 1973. Earlier the Committee had adopted the provisions of S. 2528 as an amendment to H.R. 3153. In its reconsideration, however, the Committee deleted the provisions of S. 2528 and replaced it with a revenue sharing approach.

On the assumption that the Committee's initial decision was final, I prepared a statement, which Senator Hansen supported, outlining my views on social services in general and S. 2528 in particular. The Committee's decision, however, places this statement in a different context, but I believe it is nevertheless a valuable statement as it casts considerable light on the issue of Congressional intent as it relates to social services. In this respect I am filing this statement for the purpose of providing further background on the development and implementation of this vital program.

Paul J. Fannin.)

Introduction

On October 3, 1973, S. 2528, the Social Services Amendments of 1973, was introduced and referred to the Committee. Two days later, without the benefit of hearings, or reasonable consideration by members of the Committee, or comment by the Administration, the Committee approved the provisions of S. 2528 as an amendment to H.R. 3153. It may appear by the Committee's quick action on S. 2528 that the controversy surrounding the social services program has been settled insofar as Congress is concerned. By approving the provisions of S. 2528, however, the Committee has reopened the debate over social services; a debate which I believe is far from over. In my opinion, the Committee amendment needs to be debated since it raises some very profound issues as to the operation and objectives of this program. But in a larger sense, the Social Services Amendments of 1973 prompts a discussion of the role of the Federal Government in reducing welfare dependency through social services. Welfare dependency *is* the heart of the issue and before we rush to embrace the Social Services Amendments of 1973 I think it essential, if not imperative, that the Congress ponder whether the Committee amendment is the policy which will effectively contribute to the effort to reduce dependency.

It is in this context of policy making that the Social Services Amendments of 1973 must be judged and evaluated. To evaluate social services it is important to review the history and background of the program, the intent and expectations of Congress in establishing social services, and, of course, the results.

I am convinced that this review will demonstrate that social services were designed to serve those on welfare, but that developments during the past two years have broadened the use of "social services" far beyond anything intended by Congress.

Social Services: History and Intent

The welfare titles of the Social Security Act of 1935 provide for Federal matching of state expenditures under the programs of old

age assistance, aid to the blind, aid to the permanently and totally disabled, and aid to families with dependent children. These programs were all designed to provide monetary assistance to eligible individuals and families whose incomes and resources fall below specified standards of need as determined by each State. Under the original Social Security Act of 1935, the concept of social services was not specifically recognized in the statute. As viewed initially, the problem of welfare was one of income maintenance: a view which did not conceive of supplementary services. In practice, however, services were provided to recipients by the staff of state welfare agencies and the costs involved were Federally matched as administrative expenses of the welfare program. In 1956, the Social Security Act was changed to specifically authorize social services as a legitimate part of the state welfare agency's costs.

In amending the existing law in 1956, the Congress officially recognized that the emphasis in public assistance had shifted from "relief" to "rehabilitation". This decision was not without significance since it represented the beginning of the service strategy in dealing with problems of welfare. This strategy presumed that cash assistance wasn't enough to enable people to achieve self-sufficiency and that specific services were necessary in combination with cash assistance to achieve the objective of self-support and self-care. According to a recent study, "the approach taken here was the only one considered and it was the approach of professional social workers who were convinced at that time that poverty in an affluent society was a function of individual maladjustment which could be corrected via the professional process known as casework." The commitment to a service strategy was unfilled, however, when the appropriations to operate the program were insufficient to meet the goals of rehabilitation.

In 1962, the Congress considered further amendments to the Social Security Act to implement the commitment to social services as initially established in the 1956 amendments.

In advocating the enactment of the Public Welfare Amendments of 1962, Secretary Ribicoff stressed the importance of rehabilitative social services in helping families to become self-supporting and independent. In terms of specifics, these proposed amendments increased the Federal matching from 50 to 75 percent for social services as defined by the Secretary of Health, Education and Welfare as likely to prevent or reduce dependency or as necessary to help recipients strengthen family life or attain capability for self-care or self-support. The matching for other services and for administrative costs was left at 50 percent. The amendments also broadened the scope of what could be considered as social services. Under the 1962 amendments, Federal funding was made available not only for social services to recipients but also for "preventive" services, i.e., services designed to keep past recipients from having to return to dependency on welfare and services to keep "potential" recipients from becoming dependent in the first place. The concept of "preventive" services, however, introduced a new approach to social services. This innovative proposal prompted an inquiry from the Senate Finance Committee, and in response to a number of questions, Secretary Ribicoff attempted to explain the scope and objective of "preventive" services:

"Question 1. What would constitute 'preventive services' to those who might otherwise come on welfare rolls?

Answer. 'Preventive services' are those types of social services which can be provided to individuals who are not now dependent but who, if they do not receive such services are likely to become dependent in the foreseeable future. This provision is included in the bill in order to make it possible for State public welfare departments, if they wish to help persons who request help in dealing with their personal problems, but who are not recipients of assistance at this time."

"Question 2. Who would be eligible for these 'preventive services'?

Answer. We contemplate that these services would be available only to those whose circumstances identify them as individuals who are likely to become recipients of assistance in the near future because of their circumstances or those who formerly received assistance. We do not see this as a broad program because we feel that the State public welfare departments should and will want to concentrate their services on those persons who already are recipients of assistance. States, however, have pointed out that if Federal funds were available to assist them in dealing with such problems at the prevention stage, some applications for assistance would be unnecessary and greater expenditure avoided. Services can be offered people who are applying for assistance, even if later found not eligible. 'Preventive services,' however, are offered to those who are knowingly not eligible for assistance but who request service."

"Question 3. Would 'preventive services' be a new program or an expansion or extension of some existing program?

Answer. The provision of 'preventive services' would be more accurately described as an extension of existing programs rather than the development of a new program. All public welfare departments to varying degrees provide services now to persons who are not applicants for or recipients of assistance. They receive no Federal participation, however, in the cost of these services. Very often these services are given because the State recognizes that a failure to do so will increase its expenditures when assistance application becomes necessary. The administration's recommendation is to encourage the States to provide 'preventive services' with a view to ultimately reducing the number of persons who need aid. The services provided would be comparable to those available to persons who are already on the rolls and, thus, these services can be more accurately described as an extension of the existing programs."

"Question 4. What need tests would have to be met for participation in 'preventive services' aspects of this proposal?

Answer. It is not contemplated that 'preventive services' will be made available to applicants who could purchase the type of consultation and service which they need from available community resources, but who are not at present applicants or eligible for assistance. Nor is it contemplated that these services would be extended broadly to very many people other than those already on the assistance rolls. It is the objective of the provision to reach people who are likely to become recipients of assistance in some immediately foreseeable period in the future. It will be those people to which this provision is directed and thus it would not be practicable to set limits as to the income or re-

sources such individuals may have. States may choose to set limits, however."

A central factor in the large increase in Federal funds for social services in recent years has related to the provision of services to those not on welfare and therefore this discussion is significant not only in terms of establishing the original intent of "preventive" services, but the definition of the "potential" recipient.

It is my impression that the intent of "preventive services" was to assist those in danger of becoming dependent on public assistance. It was not contemplated, however, that preventive services would be a broad program since it was the opinion of Secretary Ribicoff that the service efforts of the states would be primarily designed to serve those on welfare. In addition, it was asserted that "preventive" services would not be made available to those who could purchase such services on their own.

In addition, the 1962 Act authorized Federal funding in cases in which the welfare agency entered into agreements with other State or local agencies under which those other agencies would provide the services to recipients (including past and potential recipients). The amendments specifically required such arrangements in the case of vocational rehabilitation services and subject to the limitations prescribed by the Secretary, "permitted them in other cases where the services could not be economically or efficiently provided by the welfare agency."

The 1962 amendments can be viewed as a comprehensive effort to expand services to welfare recipients, but the objective of reducing dependency remained as a priority. According to Secretary Ribicoff, "social services represent the key to our efforts to help people become self-sufficient so they no longer need assistance." Similarly, the House Ways and Means Committee stated that "the new approach embodied in the bill places emphasis on the provision of services to help families become self-supporting rather than dependent upon welfare checks." The Senate Finance Committee expressed a similar hope, but emphasized that it expected "the Secretary of HEW to carefully limit the prescribed services to those which will significantly contribute to the rehabilitative objective of this legislation and meet the serious problems known to exist in the assistance programs." In addition, the Finance Committee argued that it did not "anticipate that public welfare programs will be used to finance the cost of services normally the responsibility of another state agency." Finally, the Committee clearly indicated that services to former and potential recipients shall only be provided "upon the request of the individual or on his behalf."

The Public Welfare Amendments of 1962 became Public Law 87–543 with the approval of President Kennedy on July 25, 1962. In signing the bill, the President sounded an optimistic note by stating that:

> This measure embodies a new approach—stressing services in addition to support, rehabilitation instead of relief, and training for useful work instead of prolonged dependency. This important legislation will assist our States and local public welfare agencies to redirect the incentives and services they offer to needy families and children and to aged and disabled people. Our objective is to prevent or reduce

dependency and to encourage self-care and self-support—to maintain family life where it is adequate and to restore it where it is deficient.

In reviewing the history of the 1962 amendments I am convinced that both the Congress and the President hoped that services of a casework nature would greatly assist in the effort to rehabilitate those *who were currently on welfare.* In addition, Congress viewed the delivery of such services as the prime responsibility of a welfare agency except in those cases where the welfare agency determines that it cannot deliver certain services to achieve *the goals of rehabilitation.*

In 1962 the objectives of the service strategy had been enthusiastically endorsed, but by 1967, according to Steiner, "the old slogans; services instead of support, rehabilitation instead of relief were abandoned and work incentives became the new thing in the continuing search for relief from relief costs." This disillusionment with the 1962 programs occurred when the numbers of welfare recipients increased particularly in the area of aid to families with dependent children (AFDC). In confronting the issue of increased numbers of welfare recipients, the Congress in the Social Security Amendments of 1967, placed greater emphasis on services which would, according to the House Ways and Means Committee, "restore more families to employment and self-reliance."

Specifically, the 1967 legislation amended the social services provisions, applicable to the AFDC program, by making 75 percent matching available for all services meeting a broad definition in the law. Among the services that could be provided according to HEW were:

1. Services to assist all appropriate persons in a family to achieve employment and self-sufficiency.
2. Child care services for children of mothers in training or employment.
3. Foster care services.
4. Services to prevent and reduce births out of wedlock.
5. Family planning services.
6. Protective services for children found to be in danger of or subject to neglect, abuse, or exploitation.
7. Services to help families meet their health needs.

In addition, the law authorized the State welfare departments to contract with sources other than State and local government agencies to provide services which they could not deliver themselves. This broadened contracting authority, however, was to be available only "to the extent specified by the Secretary."

Of primary significance to the future of the social services program was the stipulation in the law that the Secretary must define the eligibility of former and "potential" applicants. As a result, the Secretary issued regulations defining "potential" recipients as those "who are likely, within five years, to become recipients of financial assistance."

And, in addition, services were defined as "services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

These very broad definitions issued to assist in promoting flexibility would ultimately be recognized as a prime reason for the abuses which later occurred.

The 1967 amendments also established the Work Incentive Program (WIN) for families in the AFDC category, and the social services changes were viewed in the context of the requirements imposed by the new WIN program. This point was emphasized by the Senate Finance Committee in its report on the 1967 amendments as follows:

> The Committee is well aware that the services which the States will be required to furnish AFDC families will impose an additional financial burden on the States. Therefore, the provision of law relating to Federal financial participation would be amended by the Committee bill to provide 75 percent Federal financial participation in the cost of all the services provided under these new requirements upon the States. In addition, as is provided under present law, 75 percent Federal sharing would be available for services for applicants and families that are near dependency. Provision of such services can help families to remain self-supporting. As appropriate for this purpose, services may be made available to those who need them in low-income neighborhoods and among other groups that might otherwise include more AFDC cases.
>
> The 1962 amendments relating to social services provide that, with certain exceptions, the basic services must be provided by the staff of the State or local welfare agency. The Committee bill proposes some changes in this provision to take into account the need for a variety of services in State implementation of the plan for each family. Thus, an exception is permitted, to the extent specified by the Secretary, to permit child welfare, family planning, and other family services to be provided from sources other than the staff of the State and local agency. This will permit the purchase of day-care services, which, as indicated above, the committee anticipates will be needed in great volume under the bill, and other specialized services not now available or feasible to be provided by the staff of the public welfare agency and which are available elsewhere in the community. Services may be provided by the staff of the State or local agency in some parts of the State and may be provided in other parts of the State by purchase. The Secretary, in his standards governing this aspect of the program may permit purchase from other agencies and institutions. The basic reason for the exception is the variety of existing arrangements around the country in which some kinds of services are now provided, usually institutional services by other than the State or local public welfare agency.

In essence the 1967 Social Security Amendments emphasized services which would increase the employment of welfare recipients and thus reduce the dependency of those recipients on welfare assistance programs. But it was not to be. In a recent study, it was noted that

by 1972, "the number of AFDC recipients had risen fivefold since the mid-1950's, doubling just since 1967; the average *annual* rate of increase in AFDC recipients jumped from 7.3 percent during 1953–66 to 18.3 percent during 1967–71." Clearly, the hope that accompanied social services as a prime tool in reducing the dependency of AFDC recipients had, in reality, been nothing but an illusion.

The reality of continuing increases in the welfare rolls and the questionable capacity of social service programs to effectively combat welfare dependency became somewhat obscured, however, following the 1967 legislative endeavors as Federal expenditures for social services emerged as the significant issue.

Because Federal matching for social services is mandatory and open-ended, social service spending increased substantially as more and more states began to take advantage of the program by defining a "social service" as almost anything.

This situation occurred because services and participants were defined so broadly that almost any social need could claim Federal funds as a "social service."

In addition, these broad definitions allowed States to claim Federal funds for many services formerly funded by State agencies other than a welfare agency.

As a result, in 1969 Federal funding of social services amounted to $354 million; by 1972 the level of Federal funding has risen to more than $1.5 billion, and in July 1972 there were indications that the fiscal 1973 funding level could rise as high as $4.7 billion. This dramatic increase in Federal costs to meet State demands prompted the Administration and Congress to seek a limitation on spending. Following a number of legislative endeavors, the Congress finally approved an amendment to the revenue sharing bill which fixed a $2.5 billion limit on the social services program. In addition, this legislation specified:

1. That each State's proportionate share would be based on its proportionate share of the population.

2. The 75 percent match would continue until the State had reached its proportionate share.

3. Except for designated services to drug addicts, alcoholics, and mentally retarded plus child care and family planning programs, 90 percent of the expenditures would have to be made on behalf of current welfare recipients. The exemptions to this requirement are:

(*a*) child care services related to the employment or training of a member of the family, or the death, incapacity or continued absence of the parent or guardian;

(*b*) family planning services;

(*c*) services to mentally retarded individuals;

(*d*) services to drug addicts and alcoholics undergoing treatment;

(*e*) services to children who are under foster care.

By enacting into law a ceiling on expenditures for social services, the Congress was able to avoid a fiscal crisis, but in doing so it revived the debate over the scope of social services.

Reaction and Response

During the period in which Congress was confronting the issue of how to limit the growth of social services expenditures, numerous comments were directed toward the social service program.

The Senate Finance Committee in its report on the revenue sharing bill stated:

> Under present administrative guidelines—or perhaps more correctly lack of guidelines—States have succeeded in financing almost any government activity under this provision. The distribution of social services today seems based more on a State's aggressiveness and administrative ingenuity than the needs of its recipients of assistance.
>
> State welfare departments, which are supposed to exercise control over these expenditures, are becoming little more than fiscal conduits. Some States have gone so far as to formally appropriate private funds—like UGF, and so forth—so they will qualify for Federal matching money.

The Senate Appropriations Committee in reporting the 1973 HEW appropriations bill wrote:

> The Committee is not convinced that these funds are being spent prudently and effectively, in all cases.
>
> This Committee is concerned that the use of this source of Federal financing is out of any reasonable control: The Department of Health, Education, and Welfare cannot even describe to us with any precision what $2 billion of taxpayers money is being used for.
>
> This Committee believes that the Congress must limit the Federal liability for this largely unknown, undefined, and open-ended financing mechanism.
>
> This Committee believes that it is its responsibility to present the continuing uncontrolled and open-ended Federal liability for this program until the Congress has been convinced that these funds are being spent prudently and effectively.

In testifying before the Senate Appropriations Committee, Secretary Richardson said, "we have no good way of ascertaining the effectiveness of the expenditures for social services. We are convinced in a vague sort of way, it is a good thing, but we have no clear-cut way of determining whether or not and to what extent we are getting our money's worth."

And, then the Senate Finance Committee in its report on H.R. 1 indicated what it expected from the Department of Health, Education, and Welfare in regulating social services. It stated:

> The Secretary, by law, is given specific authority to limit the contracting authority for social services and to limit the extent of services to potential (as opposed to actual) welfare recipients. In both cases, however, he has failed to establish effective limitations. In fact, the regulations he has promulgated and the actions of HEW regional officials have invited the very expansion which has taken place.

The Committee directs the Secretary of HEW to issue regulations prescribing the conditions under which State welfare agencies may purchase services they do not themselves provide, and regulations which clearly state that the State matching requirement cannot be met by funds donated by private sources.

The Committee was told by the Secretary of Health, Education, and Welfare that new regulations will require reporting of how social service funds are used. The Committee expects the Secretary to have available detailed information on how social service funds are being spent and on their effectiveness.

After having expressed the hope that steps would be taken to limit the scope of the social service program it was surprising to hear so many in Congress then condemn the Department when it issued regulations to meet that very objective. What made it even more surprising was the charge leveled by some that the regulations had violated "the intent of Congress." After having read the entire legislative history of the social services program, including Title III of the recently enacted State and Local Fiscal Assistance Act of 1972 (PL 92–512), I am firmly convinced that for the first time regulations were issued which approximated Congressional intent in the operation and scope of the social services program. Secretary Weinberger agreed, observing that in the past "what Congress truly intended was not well enunciated in regulations of our Department nor followed in its administration of the program." The proposed regulations, it would seem, have taken a major step toward meeting the basic objectives of social services; objectives which by and large had been distorted over the years.

There is no question that the social services program had been distorted and among the distortions were the following as spelled out by Secretary Weinberger during an appearance before the Finance Committee:

1. Following enactment of the 1962 and 1967 amendments to the act, new provisions allowed the purchase of services for eligible recipients from State and local agencies other than the welfare department and from private agencies. While use of other agencies for the provision of services is not objectionable in and of itself, this segment of the program became the source of many abuses.

2. Another example of this distortion was the practice of accepting eligibility determination on a group basis. Model Cities areas, for instance, were often "blanketed" in making every individual, regardless of his income, employment status or needs, eligible to receive free social services if he lived within the geographic limits of the Model Cities neighborhood. Group eligibility precluded program accountability by making it impossible to allocate expenditures only to those eligible for them. This lack of accountability subverted the goal of the act—making services available to those who need them most to enable them to get off welfare.

3. The lack of definition of "family services" in the 1967 Social Security Act amendment served as another important incentive to program growth. Almost every service, aid, or program, designed to help anyone, became a "social service", eligible for 75 percent Federal matching. Thus many States began claiming as "social services" everything from parole and probation counseling to meals served in community settings.

4. Finally, the lack of any kind of maintenance-of-effort provision in the law or regulations allowed the States, with Federal matching, to refinance programs which they had traditionally supported entirely out of State funds.

The result, according to the Secretary, was a "social services program which had been allowed to finance a broad range of services without much regard for whether they were focused on public assistance recipients or whether the services were designed to make welfare families independent of welfare payments and persons in the adult welfare categories more self-sufficient."

If our objective is to reduce welfare dependency among welfare recipients, especially among those receiving aid under the AFDC program, then the steps taken by the Department to concentrate funds in the effort to meet that objective were correct.

Yet, some in Congress have challenged the regulations of the Department insisting that they would do serious damage to the efforts to reduce dependency.

Clearly, what we have here is the outline of major debate over the scope of the social services program.

The Administration is convinced, and I think the record supports their position, that the intent of social services has been to reduce the dependency of current welfare recipients or those in danger of becoming dependent through services which relate to their needs.

On the other hand, those who have challenged the Department's position are contending that social services were designed to not only serve current recipients, but former and "potential" recipients as well. In addition, they argue that the scope of services should include services which would "help recipients cope with and overcome day-to-day problems, strengthen their everyday life, and increase their self-confidence in addition to those services designed to insure employment."

By expanding the scope, however, of the social services program to include often vague and undefined services and by extending participation to an enlarged non-welfare related clientele, the conditions are created for abuse and inefficiency.

In my opinion, those who seek to overturn the Department's position have mis-read the history of the social services program. It is my view that Congress established a policy designed to deliver services to those on welfare in an effort to reduce their dependency.

Yet we are asked to adopt without much discussion a legislative proposal which would, in effect, erode that basic commitment and perpetuate the abuses of the past.

The Social Services Amendments of 1973

The Committee amendment, the Social Services Amendments of 1973, if enacted into law, would effectively cripple, if not end, the

efforts by the Administration to restore the social service program to its rightful role; that is, to serve those on welfare, or close to it. In other words, to serve those who are the neediest.

Instead of correcting the abuses of the past, the Committee amendment seeks to legitimize those abuses by statute.

To be specific, the Committee amendment would:

1. Expand the goals of social services to include community and institutional care in addition to self support and family care.

2. Allow States to delegate the determination of eligibility to other agencies who are providing services.

3. Defines eligibility of former recipients as anyone who has received assistance *within the past two years.*

4. Defines the eligibility of "potential" recipients as individuals who are likely to become applicants for assistance in the *next five years.*

5. Establishes as an income test for "potential" recipients the minimum living standard budget as determined by the Department of Labor. This test would make available free services to almost all families with incomes under $7,000.

In addition, it would make eligible for free day care to every family in this country with incomes of $10,582 and in some areas this service would be provided without cost to families of four with incomes as high as $12,000.

6. Permits the States to provide the following defined services:

Day care services for children.
Day care services for children with special needs.
Services for children in foster care.
Protective services for children.
Family planning services.
Protective services for adults.
Services for adults in foster care.
Homemaker services.
Chore services.
Home delivered or congregate meals.
Day care services for adults.
Health related services.
Home management and other functional educational services.
Housing improvement services.
Legal services (unrestricted as to the type of legal services).
Transportation services.
Educational and training services.
Employment services.
Informational and referral services.
Special services for the mentally retarded.
Special services for the blind.
Special services for the emotionally disturbed.
Special services for the physically handicapped.
Services for alcoholism and drug addiction.

7. Requires the approval by HEW of other services requested by the State except upon finding that such services are inconsistent with the *goals* of the social service program.

8. Allows Federal Financial Participation for costs of medical and mental health diagnosis and consultation when necessary to carry out service responsibilities.

9. Permit group eligibility to be extended, at the discretion of the State, to migrants and Indians, and, with the approval of the Secretary, to other groups as defined by the States.

10. Permit states to include in the State's match any private contributions including *in-kind contributions*, donated on an unrestricted basis.

11. Increases from 10 percent to 25 percent the amount of service funds that each state may spend on former and "potential" recipients.

The Committee amendment would clearly permit, under the color of law, the very same abuses which occurred under existing regulations.

It would permit Federal reimbursement for a wide range of activities many of which are unrelated to combating welfare dependency.

It would extend the opportunity for participation to those not on welfare by defining "potential" recipients as anyone likely to become dependent within a five year period. This is the very same definition which resulted in the expansion of services many of which were unrelated to reducing welfare dependency.

It would establish in law a long list of services many of which are vague and undefined.

By extending the determination of eligibility to other agencies the responsibility for accountability and control would be severely diminished.

And finally, it would erode the amount of funds available to meet the needs of current welfare recipients.

In essence, the Committee amendment fails to reform the current abuses of the social services program, and instead continues them. It also fails to re-direct the social services program to better serve its original and basic goal; *the rehabilitation of those on welfare.*

It fails because the architects of the amendment evidently believe in a different conception of the social services program. In this context, then, we need to consider very carefully the implications of the committee amendment as it relates to our policy toward welfare.

At the heart of the debate over social services is the issue of dependency.

There are those who believe that it is the policy of the Federal government to provide services to those on welfare, or close to it, to assist them in becoming *less dependent.*

On the other hand, the supporters of the Committee amendment apparently believe it is the policy of the Federal government to not only assist those on welfare but those not on welfare as well on the theory that without services they *might become dependent.*

But if services are extended to a segment of the population not on welfare, two fundamental questions must be raised:

First, are there any limits as to who may participate?

Second, are there any limits as to the kinds of circumstances in life that would qualify for services in the name of avoiding welfare dependency?

These are difficult questions, but they must be confronted, for they are basic to determining the nature of the social services program.

Apparently, the authors of the amendment have concluded that the limits on participants and services ought to be minimal. If this is cor-

rect how can it be argued that social services reduce dependency when in fact all we are doing is extending that dependency, in a different form, to more and more people.

If we accept the rather novel proposition that to avoid dependency we must extend dependency then we will have surely created the conditions for greater claims on Federal funds to provide increased numbers of services. And under these conditions pressure will mount to lift the current $2.5 billion ceiling on social services expenditures.

The prospect of a broad social services program as envisioned by the Committee amendment is disheartening for such a program reduces our basic commitment to those who need services the most by extending services to some who need them the least.

What the committee amendment proposes has momentous implications for social services in particular and our welfare policies in general. In this respect we have an important opportunity to not only pass judgment on the committee amendment but to determine, perhaps, the future direction of the social services program.

Social Services: Are They the Answer?

In debating the issue as to the scope of the social services program we need to also consider whether social services, as a tool, is the answer to reducing welfare dependency.

We are told, with computerlike regularity, that social services can resolve welfare dependency. But the evidence seems to contradict that view.

For example, a recent GAO report noted that:

> Social services had only a minor impact on directly helping recipients to develop and use the skills necessary to achieve reduced dependency or self-support. Therefore, one of the basic Congressional goals for the services—that they help people get off welfare—has not been achieved.
>
> It is unrealistic to expect that social services can play a major role in helping recipients achieve reduced dependency or self-support, considering the nature of services, the method for determining who should receive certain services, and present economic constraint.

And, Joseph Hefferan, in an article appearing in a study issued by the Joint Economic Committee, argued:

> Recent studies of the efficacy of social services have revealed that even when services are offered under nearly ideal circumstances—by highly educated professionals servicing small caseloads which are especially selected for their suitability for casework intervention—clients are likely to regard the service as vague and pleasant but irrelevant. Further, the services make no significant impact on welfare caseloads. The studies showed no reduction in caseload increases or duration as a result of dollars spent on service delivery. These studies collectively have challenged the basic premise of the service strategy, for they have failed to demonstrate a connection between service intervention and the recipient quitting relief.

Finally, Congresswoman Martha Griffiths, Chairman of the Subcommittee on Fiscal Policy of the Joint Economic Committee, argued that:

> For years the Congress was told that more social services would reduce welfare dependency. The statute says that services are to promote "self-support and personal independence" and "to prevent or reduce dependency." There was little evidence for this claim at the time and, despite the massive infusion of Federal funds, there is still no confirming evidence. Theoretically, the increase in service money should have reduced the welfare caseload, but in fact the welfare caseload has burgeoned. It has been difficult to measure effectiveness carefully because to date no one has known on what the money was being spent and who was receiving the services. It is hard to see the connection between the extremely broad group of social services that currently can qualify a State for Federal matching on the one hand and the reduction of dependency on the other. The plight of welfare recipients and the cost of welfare to the taxpayers seem to have been used as a pretext for claiming Federal dollars.

These and other commentaries have raised profound questions as to the validity of the service strategy in eliminating dependency on welfare.

Yet, I would be the first to admit that the jury is still out on social services since the basic concept has yet to be fully developed, implemented, and competently administered.

What is needed therefore is a full scale review of social services as it relates to welfare.

With all we know about social services at this point, Congress should not be too eager to seemingly approve so quickly legislation which would seek to not only continue the same old approach to welfare, but the abuses as well.

Conclusion

In enacting a social services program Congress clearly intended to provide Federal funds, on a matching basis, to the States to enable state welfare agencies to deliver services of a casework nature to welfare recipients. The objective was to provide services which were related to the reduction of welfare dependency.

But because of loose regulations and vague definitions of services and participants, the basic scope of the program was diminished.

Instead of being focused on those on welfare or those in danger of becoming dependent, the social services program became as Secretary Weinberger termed it, "an almost universal services program to be used to combat a wide variety of society's problems."

The result was a program whose fiscal demands became insatiable, finally forcing the Congress to enact a ceiling.

In doing so it expressed through different forms the hope that the social services programs would be controlled and re-directed.

The Department of Health, Education, and Welfare determined then that it must, at long last, organize the social service program in such a way as to meet its basic responsibilities to those on welfare.

The regulations it proposed were intended to reverse the disintegration in this program by re-directing it to its initial goal.

These regulations were intended to direct services to:

> . . . persons receiving benefits through the AFDC program to increase the employment of heads of AFDC families.
>
> . . . persons receiving public assistance or with incomes which placed them in a position that was likely to lead them to dependence on public assistance.

While the regulations are by no means perfect, they do reform the abuses of the past.

The reaction to these regulations and subsequent modifications has been intense, however.

The alternative, at this point, is the Committee amendment, which I believe does nothing but revert the social services program to the wide open program that has characterized it in the past.

I am not satisfied that the Committee amendment is a reasonable alternative given the intent of Congress in establishing a social service program.

The Committee amendment is a form of reaction to attempts by the Administration to reform social services, but reaction is not enough.

We need to reexamine the basis for social services and how they relate to reducing welfare dependency.

We also need to re-think the relationship of social services to welfare in general.

In short, we need to develop a new conception of social services to meet current needs and to determine, through careful consideration, who should receive the benefits of social services.

It is time to review social services under conditions which will produce a commitment between Congress and the Executive so that whatever objectives are formulated will have a chance for success.

To mandate into law a view of social services that is in direct conflict with the legislative history of this program without broad consideration would be a serious mistake.

It is time for reform and re-direction. Reaction without reform is unacceptable.

PAUL J. FANNIN.
CLIFFORD P. HANSEN.

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